



OTHER BUDGET OR FISCAL ACTIONS

INTRODUCTION

The "Other Budget or Fiscal Actions" section discusses several issues of either statewide or multi-agency fiscal impact. It addresses significant issues contained in HB 2, other cat and dog bills, and/or statutory appropriations, as well as issues not related to any specific legislation. The issues discussed in the next several pages are highlighted below:

- **State Employee Pay Plan (HB 447).** The legislature passed a pay plan (HB 447) that includes two elements: 1) an increase in employer contributions for health insurance; and 2) and pay increases for each year of the biennium.
- **State Employees – FTE Summary.** HB 2 provides funding for a total 11,533.57 FTE state employees in FY 2006 and 11,697.52 in FY 2007, excluding the units of the Montana University System, for an increase of 3.7 percent.
- **Vacancy Savings.** The legislature accepted the executive's recommendation to apply a 4 percent vacancy savings rates, with a few exceptions.
- **Public School Funding.** The Supreme Court issued their final order in March 2005 affirming the District Court's decision (Sherlock) that the legislature provide a remedy to the school funding problem.
- **Long Range Planning Summary.** The 2005 Legislature approved \$473 million of grants, loans, and capital projects in the Long Range Planning (LRP) program, more than twice the funding appropriated in these programs in the 2005 biennium.
- **St. Mary Facility Rehabilitation.** The legislature took steps to get the rehabilitation work started, including appropriating nearly \$12 million for the project.
- **Other Appropriation Bills.** Beside HB 2, several bills were enacted that appropriated \$39.5 million in general fund, \$227.7 million in state special revenue, and \$137.8 million in other funds.
- **Status of Tobacco Settlement Funds.** Payment of settlement funds of \$42.1 million are expected for the 2007 biennium and interest on the tobacco trust will generate \$7.1 million.
- **Cigarette and Tobacco Tax Funds: Initiative-149.** One of the most significant policy and appropriation issues considered by the 2005 Legislature was implementation of I-149.
- **Office of State Public Defender.** The 2005 Legislature passed SB 146, which established the Office of State Public Defender.
- **Fiscal 2005 Supplemental Appropriations.** The legislature provided state agencies with an additional \$55.3 million general fund in FY 2005.
- **Fund Balance Adequacy/Reserves.** The legislature adopted a budget that includes an ending fund balance of \$76 million.
- **Federal Jobs and Growth Tax Relief Funds.** Federal funding that was provided to assist Montana through a period of severe revenue shortfalls allowed the state to maintain many services that might otherwise have been cut. The 2005 Legislature restored state funding for many of these programs.

- **Information Technology Major Projects.** The legislature approved funding for several information technology projects.
- **Economic Development.** The Schweitzer administration advocated economic and community development as a major priority of the 2005 legislative session.
- **Pension Funds – Unfunded Liabilities.** The Montana Constitution requires that the public retirement systems be funded on an actuarially sound basis.
- **General Fund/State Special Revenue Fund Statutory Appropriations.** Statutory appropriations are a special kind of legislative appropriation. Unlike temporary appropriations that expire in two years (such as those in the general appropriations act), statutory appropriations are, as their name suggests, in statute and are not part of the biennial budgeting process.
- **General Fund Non-budgeted Transfers.** Like statutory appropriations, transfers and their authorizations are in statute and are not part of the biennial budgeting process, yet they affect the amount of money available for the legislature to appropriate for specific programs.
- **Proprietary Funds and Rate-Setting.** There are two types of proprietary funds: 1) internal service funds; and 2) enterprise funds. The legislature sets the rates for internal service funds.
- **Fund Switches.** General fund appropriations increased \$67.6 million as a result of funding switches.
- **Fee Changes.** This section lists the impact of fee changes or new fees either adopted by the legislature or assumed in the budgeting process.
- **Legislative Interim Studies.** The legislature approved 24 interim studies (in bills or resolutions) that have been assigned to various interim committees.
- **Other Major Funds.**
 - Highways Special Revenue Account –The account will continue to experience a negative cash flow as expenditures are projected to exceed revenues through the 2009 biennium.
 - Resource Indemnity Trust – In February of 2002, the Governor certified that the balance of the RIT trust had exceeded the \$100 million threshold. Consequently, the trust no longer receives revenue. Interest earnings are used as a funding source for several funds, and the amount of revenue in excess of the \$100 million corpus is available for appropriation.
 - Coal Severance Tax Shared Account – A small number of programs receive revenue from a portion of the coal severance tax. The level of funding from this source has varied in recent actions.

STATE EMPLOYEE PAY PLAN

The 2005 legislature passed HB 447, which includes a pay plan with two primary elements:

- A salary increase of 3.5 percent (or \$1,005, whichever is greater) beginning October 1, 2005 and a further 4.0 percent (or \$1,118, whichever is greater) increase beginning October 1, 2006.
- An increase in insurance of \$46 on January 1, 2006 and a further \$51 on January 1, 2007.

The following figure shows the general fund and other funds added by type of adjustment.

Figure 1

Pay Plan by Type of Adjustment
2007 Biennium

Type of Adjustment	General Fund	Other Funds	Total Funds
Increase in Pay Schedules*	\$27,356,311	\$26,830,670	\$54,186,981
Insurance Increase*	8,679,274	7,441,093	16,120,367
Training	75,000	-	75,000
Contingency	<u>1,500,000</u>	<u>3,000,000</u>	<u>4,500,000</u>
Total	<u>\$37,610,585</u>	<u>\$37,271,763</u>	<u>\$74,882,348</u>

*Approximate

The following figure shows the increase by year and by entity responsible for distributing the pay plan to individual agencies.

Figure 2

Pay Plan Adjustments by Entity
2007 Biennium

Entity	-- Fiscal 2006 --			-- Fiscal 2007 --			-- 2007 Biennium --		
	General Fund	Other Funds	Total Funds	General Fund	Other Funds	Total Funds	General Fund	Other Funds	Total Funds
Legislative Branch	\$209,282	\$18,179	\$227,461	\$538,330	\$46,934	\$585,264	\$747,612	\$65,113	\$812,725
Consumer Counsel	0	11,734	11,734	0	30,024	30,024	0	41,758	41,758
Judicial Branch	599,262	25,598	624,860	1,547,500	65,278	1,612,778	2,146,762	90,876	2,237,638
Executive Branch	5,613,599	9,336,466	14,950,065	14,700,424	24,318,806	39,019,230	20,314,023	33,655,272	53,969,295
University System	<u>3,820,187</u>	<u>125,024</u>	<u>3,945,211</u>	<u>9,007,001</u>	<u>293,720</u>	<u>9,300,721</u>	<u>12,827,188</u>	<u>418,744</u>	<u>13,245,932</u>
Subtotal	\$10,242,330	\$9,517,001	\$19,759,331	\$25,793,255	\$24,754,762	\$50,548,017	\$36,035,585	\$34,271,763	\$70,307,348
Training*	\$75,000	\$0	\$75,000	\$0	\$0	\$0	\$75,000	\$0	\$75,000
Contingency*	<u>1,500,000</u>	<u>3,000,000</u>	<u>4,500,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1,500,000</u>	<u>3,000,000</u>	<u>4,500,000</u>
Total	<u>\$11,817,330</u>	<u>\$12,517,001</u>	<u>\$24,334,331</u>	<u>\$25,793,255</u>	<u>\$24,754,762</u>	<u>\$50,548,017</u>	<u>\$37,610,585</u>	<u>\$37,271,763</u>	<u>\$74,882,348</u>

*Biennial appropriation to the Office of Budget and Program Planning for distribution.

Although these funds were appropriated in HB 447, pay plan allocations by program and agency are included in the program and agency tables for each agency in Volumes 3 and 4 of this report.

PER HOUR SALARY INCREASE

The legislature provides a 3.5 percent increase in salary for most employees beginning on October 1, 2005, with a further 4.0 percent increase beginning October 1, 2006. In order to provide an additional increase to employees lower on the pay plan scale, the legislature provided a minimum increase of

\$1,005 in FY 2006 and an additional \$1,118 in FY 2007. Consequently, if an employee has a current salary of about \$28,700 or less on October 1, 2005, they will receive the minimum increase rather than a 3.5 percent increase. For example, an employee making \$20,000 would receive an increase of \$1,005 on October 1, 2005, or about 5.0 percent, and a further increase of \$1,118, or an additional 5.3 percent, on October 1, 2006.

Because the increase is only in effect for a portion of the biennium, the 2009 biennium cost will be about \$45.3 million general fund and \$43.8 million other funds.

INSURANCE INCREASE

The legislature added \$46 per month for calendar year 2006 and an additional \$51 per month for calendar year 2007 for employee insurance benefits. Employer contributions will total \$506 on January 1, 2006 and \$557 on January 1, 2007. The university system increase begins on the previous July 1 each year.

Because the cost of the increase is phased-in over the biennium, the 2009 biennium cost will be about \$15.3 million general fund and \$15.1 million other funds.

TRAINING

The legislature provided \$75,000 general fund over the biennium to continue a labor-management initiative begun by the 2001 Legislature. The initiative is designed to provide professional development for management and other employees involved with union activities in the areas of collective bargaining and administration of labor contracts.

PERSONAL SERVICES CONTINGENCY

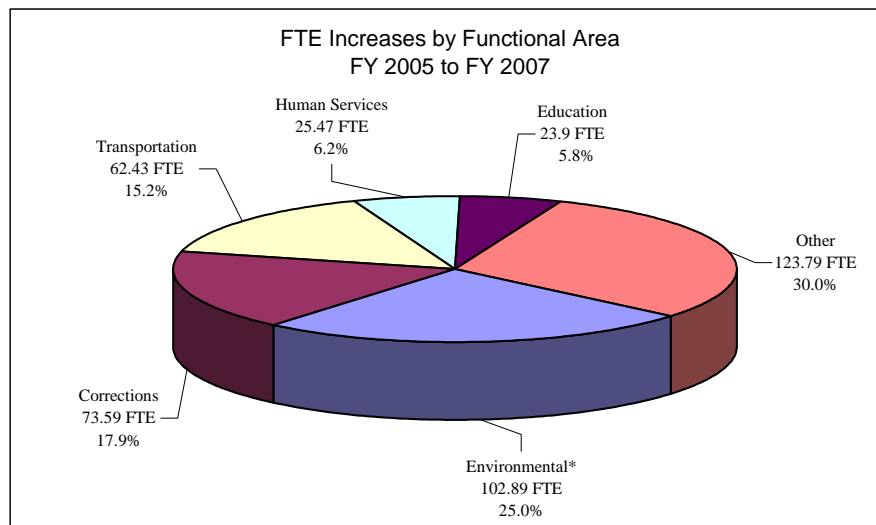
In keeping with the practice of the last several biennia, the legislature provided a contingency pool to the executive to distribute to agencies unable to meet vacancy savings targets. General fund of \$1.5 million and other funds of \$3.0 million over the biennium were appropriated to the Office of Budget and Program Planning.

STATE EMPLOYEES FTE SUMMARY

HB 2 provides funding for a total 11,533.57 FTE state employees in FY 2006 and 11,697.52 in FY 2007, excluding the units of the Montana University System. These totals represent an increase of 412.07 FTE (3.7 percent) in FY 2007 over the FY 2005 level used for budgeting purposes.

The overall change in statewide FTE is the result of several actions. The following figure shows the allocation of the new FTE, by general type of function. Please note that the change in FTE in the Department of Transportation includes a transfer of 12.50 FTE from the Department of Justice due to reorganization. Within the “other” category, the bulk of the increase (and 20.8 percent of the total increase) is to staff the new Office of the Public Defender, which not only receives existing state employees from the Judiciary and the Appellate Defender, but new employees and transfers from local governments.

Figure 3



The following figure: 1) provides a listing of all FTE for which funding was appropriated in HB 2 in the 2007 biennium; and 2) compares this total to the 2005 biennium total. Please note that the listing does not include any FTE that may have been added in the 2005 biennium in budget amendments or other action, or funded through language or statutory appropriations. Because the legislature does not appropriate funding specifically for FTE in the Montana University System except in the Office of the Commissioner of Higher Education, those FTE are not listed in the main part of the table. Also, please note that the table does not include any FTE that may be added as a result of the passage of other legislation.

As shown in the figure, most agencies of state government received an increase in FTE, with the largest increases occurring in the three major environmental agencies, corrections, and transportation.

Figure 4
Total State Employees General Appropriations Act*
2005 Biennium to 2007 Biennium

Section/Agency	Actual Fiscal 2004	Approp Fiscal 2005	Approp Fiscal 2006	Approp Fiscal 2007	FY05-FY07 Difference	Percent Increase
Section A - General Government**						
Legislative Branch	124.77	129.94	124.97	130.14	0.20	0.2%
Consumer Counsel	5.04	5.04	5.54	5.54	0.50	9.9%
Judiciary	374.68	374.68	391.13	392.13	17.45	4.7%
Governor's Office	60.00	56.00	59.07	59.07	3.07	5.5%
Commissioner of Political Practices	5.00	5.00	5.00	5.00	0.00	0.0%
State Auditor	71.50	71.50	76.50	76.50	5.00	7.0%
Transportation	2,176.13	2,176.13	2,174.16	2,238.56	62.43	2.9%
Revenue	609.53	643.53	612.08	615.53	-28.00	-4.4%
Administration	143.07	151.07	149.47	149.72	-1.35	-0.9%
Appellate Defender	3.00	3.00	3.00	0.00	-3.00	--
Montana Censensus Council	2.00	2.00	2.50	2.50	0.50	25.0%
Office of the Public Defender	0.00	0.00	5.50	90.25	90.25	--
Total Section A	3,574.72	3,617.89	3,608.92	3,764.94	147.05	4.1%
Section B - Health and Human Services						
Public Health and Human Services	2,755.01	2,761.99	2,783.46	2,787.46	25.47	0.9%
Section C - Natural Resources and Commerce						
Fish, Wildlife, and Parks	623.44	625.48	659.85	661.85	36.37	5.8%
Environmental Quality	355.03	356.03	366.78	366.78	10.75	3.0%
Livestock	145.49	145.49	135.99	135.99	-9.50	-6.5%
Natural Resources and Conservation	486.24	486.26	542.03	542.03	55.77	11.5%
Agriculture	111.54	111.55	116.04	116.54	4.99	4.5%
Commerce	47.00	47.00	46.66	46.66	-0.34	-0.7%
Total Section C	1,768.74	1,771.81	1,867.35	1,869.85	98.04	5.5%
Section D - Corrections and Public Safety						
Board of Crime Control	19.00	19.00	20.00	20.00	1.00	5.3%
Justice	719.35	711.60	730.22	727.10	15.50	2.2%
Public Service Commission	39.00	39.00	39.00	39.00	0.00	0.0%
Corrections	1,095.05	1,095.80	1,165.39	1,169.39	73.59	6.7%
Labor and Industry	707.48	705.24	726.58	726.58	21.34	3.0%
Military Affairs	168.90	168.90	172.90	172.90	4.00	2.4%
Total Section D	2,748.78	2,739.54	2,854.09	2,854.97	115.43	4.2%
Section E - Education and Cultural Resources						
Office of Public Instruction	125.31	125.31	138.66	139.21	13.90	11.1%
Board of Public Education	4.00	4.00	4.00	4.00	0.00	0.0%
School for the Deaf and Blind	81.68	81.68	80.95	80.95	-0.73	-0.9%
Commissioner of Higher Education	90.05	90.05	100.05	100.05	10.00	11.1%
Arts Council	7.00	7.00	7.00	7.00	0.00	0.0%
State Library Commission	28.50	28.50	29.50	29.50	1.00	3.5%
Historical Society	57.68	57.68	59.59	59.59	1.91	3.3%
Total Section E	394.22	394.22	419.75	420.30	26.08	6.6%
Total - All Sections	11,241.47	11,285.45	11,533.57	11,697.52	412.07	3.7%
*Does not include the units of the Montana University System.						
**Secretary of State FTE are all off-budget (proprietary fund)						

The major changes include the following factors.

- Staff additions in environmental related agencies (Departments of Fish, Wildlife, and Parks - FWP; Environmental Quality - DEQ, and Natural Resources and Conservation - DNRC) are for a number of purposes, including:
- Replacement of contract services with FTE for automated licensing in FWP, which adds 16.00 FTE
- The addition of 9.00 FTE in DEQ for total maximum daily load (TMDL) activities
- Accelerated water rights adjudication in DNRC, which adds 39.00 FTE
- An additional 7.79 FTE in DNRC for various fire related activities, including additional helitack capabilities
- Correctional staff increases due to:
- The addition of 15.00 FTE new probation and parole officers
- An additional 56.64 FTE to staff and operate a revocation center at Montana State Prison
- The Office of the Public Defender in FY 2007 is staffed not only with FTE transferred or absorbed from the Judiciary and the Appellate Defender, but with 20.00 new FTE and 65.75 FTE transferred from local governments
- The Department of Transportation adds staff for the construction plan, and to integrate financial management systems
- The major factors causing the net increase in the Department of Public Health and Human Services change in staff are:
- Enhancement of adult and child mental health services
- Enhancement of administration of Medicaid services and implementation of federal requirements to evaluate the accuracy of Medicaid payments
- Administration of the new prescription drug program
- Reduction in FTE at the Montana Developmental Center as residents are moved to community settings
- The Judiciary received additional FTE to add a judgeship to Gallatin County and to accelerate the water adjudication process
- 8.00 FTE was added to the Department of Revenue for compliance audit work
- FTE in the Department of Livestock are dropping due to reductions in revenues due primarily to the continuing drought conditions in the state

There were four reorganizations that reallocated current staff among different agencies:

- Unemployment insurance tax collection activities, including 30.00 FTE, were returned to the Department of Labor and Industry from the Department of Revenue in the 2005 biennium. The transfer is reflected in the FY 2004 FTE, while the FY 2005 FTE continues to reflect the original appropriation.
- The Motor Carriers Safety Assistance Program, including 12.50 FTE, was transferred to the Department of Transportation from the Department of Justice.
- The Office of Consumer Protection was transferred from the Department of Administration to the Department of Justice. The transfer included 8.75 FTE.
- The Office of the Public Defender received 1.50 FTE from the Judiciary and absorbed 3.00 FTE with the Appellate Defender.

VACANCY SAVINGS

Vacancy savings is the difference between the cost of fully funding a position for the entire year and the actual cost of employee positions during that period. A vacancy savings reduction, usually a percentage reduction from full funding, has been applied to budgets in prior years in anticipation that staff turnover and vacancies often result in lower personal services expenditures than appropriated.

LEGISLATIVE VACANCY SAVINGS

The Executive Budget recommended a 4.0 percent vacancy savings rate on all personal services (including insurance) for all agencies except:

- Those with fewer than 20 FTE, except for the Montana Consensus Council which was transferred from the Governor's Office to being attached to the Department of Administration;
- University system faculty;
- Elected officials;
- The legislative branch; and
- The judicial branch.

The final legislative budget incorporated the 4.0 percent vacancy savings, but made some additional exceptions from how vacancy savings has been applied in recent years:

- The Montana Highway Patrol was exempted by a provision in HB 35
- The Field Services Program in the Child and Family Services Division, Department of Public Health and Human Services has vacancy savings applied at 2 percent instead of 4 percent
- The Student Services Program and Education Program of the Montana School for the Deaf and Blind were exempted
- The Legislative Audit Division was reduced \$112,369 in state special revenue as vacancy savings reduction

Total budget reductions as a result of the imposition of vacancy savings are about \$16.8 million general fund and \$24.2 million other funds over the 2007 biennium, excluding the university system. Vacancy savings is a factor in calculating the "lump sum" distribution of state funding for the university units, but ceases to be a major factor in actual university budgets when state funding and tuition levels determined by the Board of Regents are combined.

In addition, certain personal services reductions that were taken in the 2003 session were continued by the 2005 Legislature for the Department of Public Health and Human Services (DPHHS). While in other agencies, these reductions were taken as a reduction of FTE and dollars, in DPHHS the FTE authority remains but the dollars were taken. This has the same effect as applying vacancy savings and results in an additional reduction for DPHHS of \$1.4 million general fund and \$0.5 million other funds. This additional vacancy savings for DPHHS is the equivalent of 0.7 percent.

PERSONAL SERVICES CONTINGENCY

Vacancy savings are assessed against personal services budgets on the assumption that actual vacancy savings will be sufficient to cover the reduction. Sometimes, agencies don't generate enough actual vacancy savings, resulting in a shortfall.

In order to assist agencies that have insufficient authority to meet all personal services costs in the 2007 biennium, the legislature provided a contingency fund totaling \$1.5 million general fund and \$3.0 million other funds. Agencies must apply to the Office of Budget and Program Planning for these funds.

PUBLIC SCHOOL FUNDING

The 59th Legislature faced a daunting challenge. In response to a December 2004 Supreme Court preliminary decision, the Legislature was faced with the requirement to: 1) define a basic system of quality schools; 2) “cost out” the resources required to deliver a basic system of quality education; 3) develop a funding formula to distribute budget authority among school districts; and 4) provide an adequate revenue stream to pay for the funding formula. The Supreme Court issued their final order in March 2005 affirming the District Court’s decision (Sherlock) that the legislature provide a remedy to the school funding problem by October 1, 2005.

The 59th Legislature was successful in achieving the first objective, but not the last three. In passing SB 152, the legislature created a definition of a basic quality school system that includes recognition of the resources required and the population served. An interim committee created by SB 525 will conduct the cost study, develop the funding formula, and recommend revenue changes in preparation for a special session on school funding in December 2005.

KEY LEGISLATION

House Bill 63

The new school funding system that will be created in the special session may affect state spending on schools as early as FY 2007. In the meantime, the 59th Legislature appropriated money for schools for both years of the 2007 biennium by passing HB 63. HB 63 did the following:

- Increased the basic and per-ANB entitlements for both elementary and high school for inflation by 2.1 percent in FY 2006 and 2.10 percent in FY 2007
- Increased the per-ANB entitlements for elementary by \$250 and for high school by \$100 in each year
- Allows unified elementary and high school districts to share cash reappropriated

The percent increase above FY 2004 levels in Base Aid due to HB 63 is 7.2 percent in FY 2006 and 8.0 percent in FY 2007.

Compared with state spending on schools in FY 2004, HB 63 increased state spending in the 2007 biennium by \$66.8 million in additional Base Aid. Other bills, described below, reduced this by \$0.3 million.

House Bill 2

In addition to increases in Base Aid, the legislature in HB 2 provided increases for the following areas of aid to schools:

- Increases in special education of \$8.1 million
- School facility increases of \$4.3 million
- Secondary vocational education and gifted and talented increases of \$0.8 million
- Indian Education For All grants to districts for information sharing with other districts - \$1.1 million
- Retirement GTB increases of \$2.0 million in Impact Aid districts to reflect SB 333, an act requiring state and local provision of retirement benefits for teachers whose salaries are paid for out of federal impact aid funds – which was in response to a federal court order disallowing the use of federal impact aid monies for teacher retirement costs

- Other present law adjustments for transportation, HB 124 block grants and other, \$2.6 million

The figure below summarizes these changes by year. The table shows the impact of legislation on both the general fund and the guarantee account. The guarantee account and general fund shares are also shown.

Figure 5			
Legislative Changes in OPI for the 2007 Biennium			
	Compared with FY04 Base Budget		
	FY06	FY07	Biennial
OPI Agency			
General Fund			
Indian Education for All Curriculum Development (4 FTE)	\$1,155,423	\$1,155,423	\$2,310,846
Student Education Information Data System (4 FTE)	2,455,026	370,974	2,826,000
Other OPI - Present Law and Statewide Adjustments	422,451	620,031	1,042,482
Total General Fund	<u>\$4,032,900</u>	<u>\$2,146,428</u>	<u>\$6,179,328</u>
Federal Monies (5.3 FTE)	\$3,017,721	\$3,501,935	\$6,519,656
State Special	<u>27,130</u>	<u>32,408</u>	<u>59,538</u>
Total OPI Agency	<u>\$7,077,751</u>	<u>\$5,680,771</u>	<u>\$12,758,522</u>
Distribution to Schools			
General Fund & Guarantee Account			
Base Aid Increase - HB 63			
\$250 per ANB Elementary, \$100 per ANB High School FY06, Three Year			
Averaging Both years, Inflation Both Years	\$32,476,900	\$36,283,700	\$68,760,600
Other Bills Affecting Base Aid	3,998	(338,802)	(334,804)
Special Education	3,638,367	4,480,534	8,118,901
School Facilities	2,128,400	2,128,400	4,256,800
Indian Education For All	550,000	550,000	1,100,000
Other Distribution to Schools (HB 124 BI Grants, Vo-Ed, Gifted & Talent)	<u>\$1,450,840</u>	<u>\$1,935,478</u>	<u>\$3,386,318</u>
Total General Fund & Guarantee Account	<u>\$40,248,505</u>	<u>\$45,039,310</u>	<u>\$85,287,815</u>
Federal Increases	\$14,347,855	\$21,268,626	\$35,616,481
Total Distribution to Schools	<u>\$54,596,360</u>	<u>\$66,307,936</u>	<u>\$120,904,296</u>
Guarantee Account Share of Base Aid	\$2,315,417	\$1,861,193	\$4,176,610
Total OPI Agency and Distribution - General Fund Share	<u>\$59,358,694</u>	<u>\$70,127,514</u>	<u>\$129,486,208</u>

In addition to the increase in state appropriations, the 59th Legislature increased federal appropriations to schools by \$35.6 million in the 2007 biennium as compared with FY 2004.

Also, in addition to the increases for schools, the legislature increased state general fund for OPI state level activities by \$6.2 million in the 2007 biennium compared with FY 2004. These increases were for development of a student information database (\$2.8 million), Indian Education for All (\$2.3 million) and other adjustments including the pay plan (\$1.1 million). The Indian Education For All program will develop curriculum and professional development tools for all students in Montana regarding the cultural heritage and history of Native Americans.

Senate Bill 152

This legislation defines a basic system of free quality public elementary and secondary schools. This system shall contain at a minimum the educational program specified by the accreditation standards provided for in 20-7-111, MCA. The system will contain educational programs to provide for students with special needs, such as children with disabilities, at-risk students, students with limited English proficiency, American Indian students, and gifted and talented students. The system will employ qualified and effective teachers, administrators and staff, will contain facilities and distance learning

associated with the accreditation standards, transportation to and from school, provisions for assessments of students, and will preserve local control. The educationally relevant factors of the system will include the number of students in a district, needs of isolated and urban schools, needs of special needs and American Indian students, and the ability to attract and retain highly qualified educators.

SB 152 requires that by July 1, 2007, the legislature shall determine the costs of providing the basic system of quality education, establish a funding formula based on the definition that reflects the educationally relevant factors and that distributes the state's share equitably among school districts, and consolidates the budgetary fund structure. The legislature shall also conduct a study every 10 years to reassess the educational needs and costs of the system and incorporate the findings into the funding formula.

SB 152 also requires the Legislative Fiscal Division, in response to a request by the Education and Local Government interim committee, to provide analyses of proposed changes in the accreditation standards. The analyses will be provided to the committee and the office of budget and program planning. If the fiscal analyses of a proposal is found to have a substantial impact, the board of public education may not implement the standard until July 1 following the next legislative session.

Senate Bill 525

This legislation creates a quality schools interim committee to continue the work of the joint select committee on education funding. The joint select committee met many times during the session and received testimony by school officials regarding problems and potential solutions in Montana's schools. SB 525 requires that by December 1, 2005, the committee shall assess the educational needs of students served by the educational system, determine the costs of the system, determine the state's share of the cost of the system, and construct a funding formula based on SB 152, the assessment of needs, the educationally relevant factors, and all applicable state and federal laws. The funding formula must contain an inflation factor and must distribute the state share in an equitable manner. The committee is charged with consolidating the budgetary fund structure of school districts, examining the state's existing and projected financial resources as well as the needs and concerns of Montana's taxpayers and must prepare appropriate legislation. The committee may utilize staff from all branches of government and shall seek input from the educational community.

The members of the committee created by SB 525 are: 1) four members of the House of Representatives appointed by the speaker, 2) four members of the Senate appointed by the president, and 3) the following ex-officio nonvoting members: a) a representative from the Superintendent of Public Instruction, b) a representative of the Governors Office, and c) a representative of the Board of Public Education. On or before October 1, 2005, the committee must issue a report on the committee's preliminary findings and recommendations.

Other Legislation

Other bills that impact public education funding, either directly or indirectly, can be found at page E-2 of Volume 4 of the Legislative Fiscal Report 2007 Biennium.

LONG-RANGE PLANNING SUMMARY

The 2005 Legislature approved \$473 million of grants, loans, and capital projects in the Long Range Planning (LRP) program, more than twice the funding appropriated in these programs in the 2005 biennium. The figure below summarizes the funding for each of the LRP programs. The amounts shown reflect the funding appropriated or authorized for projects. The marked increase in appropriations resulted in large part from several one-time general fund transfers and unusual appropriations in LRP programs. Specific descriptions of the unusual occurrences can be seen below, and more detailed information can be found in the Legislative Fiscal Report, Volume 4, Section F.

Figure 6
Legislative Action -- 2005 Session
Long Range Planning Programs
2007 Biennium (dollars in millions)

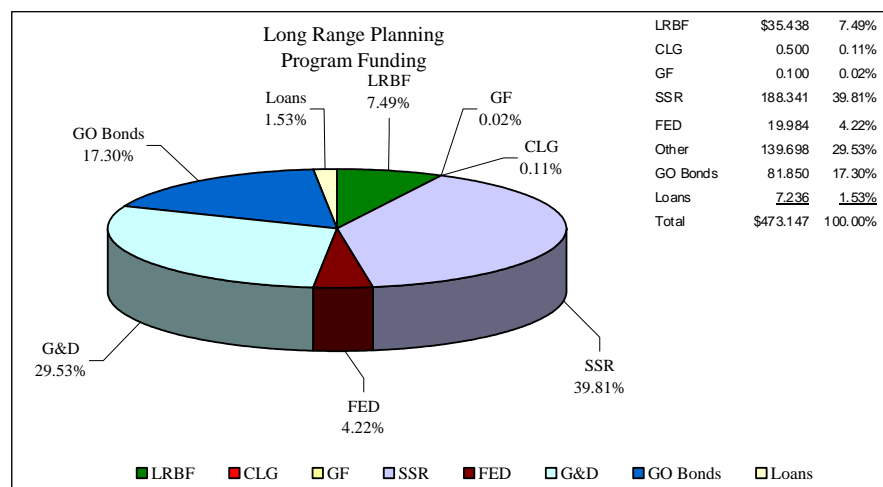
Bill #	Program	LRBF	CLG	GF	SSR	FED	G&D	GO Bonds	Loans	Total	GF OTO Trnsf
HB 5	LRBP and Other State Projects - Cash	\$35.4	\$0.5	-	\$160.7	\$20.0	\$139.7	-	-	\$356.3	\$30.1
HB 299	LRBP - Bonding	-	-	-	-	-	-	5.1	-	5.1	-
HB 540	LRBP and Other State Projects - Bonding	-	-	-	-	-	-	68.0	-	68.0	-
HB 6	Renewable Resource Grant Program	-	-	-	5.0	-	-	-	-	5.0	0.6
HB 8	Renewable Resource Loan Program	-	-	-	-	-	-	-	7.2	7.2	-
HB 7	Reclamation & Development Grant Program	-	-	-	4.9	-	-	-	-	4.9	-
HB 9	Cultural & Aesthetic Grant Program	-	-	0.1	0.8	-	-	-	-	0.9	3.4
HB 11	Treasure State Endowment Program	-	-	-	16.9	-	-	-	-	16.9	-
HB 11	Treasure State Regional Water System Grants	-	-	-	-	-	-	5.0	-	5.0	-
HB 12	State Building Energy Conservation Program	-	-	-	-	-	-	3.8	-	3.8	-
Total		\$35.4	\$0.5	\$0.1	\$188.3	\$20.0	\$139.7	\$81.9	\$7.2	\$473.1	\$34.1

LRBF = Long-Range Building Fund CLG = Capitol Land Grant G&D = Grants, Donations, Proprietary Funds, and Higher Education Funds GO = General Obligation

Funding for the LRP programs is derived from a number of different sources. The chart below shows

the proportional breakdown of the funding for LRP. The largest source of LRP funding is state special revenue (SSR). Most SSR funds are appropriated to the Department of Transportation and the Department of Fish, Wildlife, and Parks in the Long-Range Building Program (LRBP). The Treasure State Endowment program also uses significant SSR. Another large funding source of LRP is captured in the "G&D" category, which consists of a combination of grants, donations, proprietary funds, and higher education funds. The size of this category can be attributed to the funding in the LRBP for Montana University projects. General fund makes up only 0.02 percent of the LRP appropriations.

Figure 7



LONG-RANGE BUILDING PROGRAM

Total Long-Range Building Program (LRBP) appropriations for the 2007 biennium are \$275.7 million. Actual LRBP cash projects total \$222.6 million, and bond proceeds authorized for LRBP are \$53.1 million. HB 5 appropriates and authorizes a total of \$356.3 million. HB 299 and HB 540 appropriated a total of \$73.1 million in bond proceeds. The difference in these amounts are because several projects, unrelated to LRBP, were funded in HB 5 and HB 540. Among these was the US Highway 93 construction project funded in HB 5, \$133.8 million, and Department of Natural Resource and Conservation projects funded in HB 540, \$19.5 million.

Through the LRBP, the Fifty-ninth Legislature made some headway on the backlog of deferred maintenance, which has been an issue in the state for many years. The legislature approved a one-time general fund transfer of \$30.1 million to improve the maintenance status of state buildings. Additionally, the legislature appropriated funds to conduct a study to ascertain the state's needs in deferred maintenance and develop a more adequate mechanism for funding future deferred maintenance. HB 5 authorized 14 University System projects for construction of new buildings and additions and renovation to existing buildings across the state. Finally, one new state government-building project, renovation of Helena's Capitol Hill Mall for the Historical Society, received bonded funding and authorizations to begin the purchase of the facility. If the state is able to finalize the purchase of the mall, renovation work will begin in the 2007 biennium.

Renewable Resource Grants and Loan Programs (RRGL)

The biennial statutory allocation of Resource Indemnity Trust (RIT) interest income for RRGL grants is \$4.0 million, appropriated in HB 6. In the 2007 biennium, RRGL also receives \$1 million in fund transfers, \$600,000 general fund and \$400,000 Reclamation and Development Grant Program (RDGP) funds, to expand the grants program. Loans made under the RRGL are financed with bonds backed by coal severance tax revenue and are authorized in HB 8. The purpose of RRGL projects is "to enhance Montana's renewable resources through projects that measurably conserve, develop, manage, or preserve resources (85-1-602, MCA). The 2005 Legislature appropriated \$4.6 million for RRGL grants in HB 6 and authorized \$7.2 million for loans in HB 8. The interest rates on loans appropriated in HB 8 are subsidized with coal severance tax revenues in cases of financial need.

Reclamation and Development Grant Program (RDGP)

The RDGP was established to fund projects that: 1) repair, reclaim, and mitigate environmental damages to public resources from non-renewable resource extraction; and 2) develop and ensure the quality of public resources for the benefit of all Montana citizens. The RDGP receives \$3.0 million in RIT investment income, \$4.1 million in oil and gas tax revenues, \$1.3 million in metal mines tax revenues, and other sources of funding in the 2007 biennium for grant awards appropriated in HB 7. The 2005 Legislature authorized \$4.9 million in grant appropriations.

CULTURAL & AESTHETIC GRANT PROGRAM

The Cultural & Aesthetic Grant Program (C&A), administered by the Montana Arts Council (MAC), is funded with interest earned from the C&A Trust and general fund appropriations, for the purposes authorized in Title 22, Chapter 2, part 3, MCA. The 2005 Legislature authorized a total of \$792,925 for C&A grants and \$408,370 in administrative expenses in the 2007 biennium. In the 2007 biennium, interest earnings were increased by \$100,275 of general funds.

The legislature approved a one-time general fund transfer into the cultural trust of \$3.4 million. The transfer replaced almost all of the corpus reduction resulting from the 1997 purchase of Virginia and Nevada Cities. Because the repayment of the trust is not complete, the program will continue to require financial support to retain grant appropriations at a pre-reduction level.

TREASURE STATE ENDOWMENT PROGRAM

The Treasure State Endowment Program (TSEP) is funded with investment earnings on the Treasure State Endowment Trust in accordance with Section 90-6-701, MCA. The Treasure State Endowment Trust receives 75 percent of the coal severance tax revenues deposited into the coal severance tax permanent fund. Deposits of the revenue are distributed into two TSEP trust funds, two-thirds are deposited in the TSEP grant program fund and one-third is deposited into the TSEP regional water program. In the 2007 biennium, estimated interest earnings available are \$17.6 million for the TSEP program and \$3.8 million for the TSEP regional water systems.

From the earnings, HB 11 authorizes \$16.2 million for 40 TSEP grants to local governments. In addition, \$100,000 is authorized for emergency grants and \$600,000 for preliminary engineering grants. For the 2007 biennium only, interest earnings from the regional water fund will not be used to fund construction costs of the TSEP regional water program. Instead, HB 748 appropriated \$5 million in general obligation (G.O.) bond proceeds to fund the match to federal and local regional water project costs. The interest earnings from the regional water trust will pay for the costs associated with the bond issue.

STATE BUILDING ENERGY CONSERVATION

The State Building Energy Conservation Program (SBEC), operated by the Department of Environmental Quality (DEQ), was established to reduce operating costs in state facilities by identifying and funding cost-effective energy efficiency improvement projects. Through this program, the state sells G.O. bonds, uses the bond proceeds to pay for energy efficiency improvements, then uses the resulting energy cost savings to pay debt service on the bonds. The projects are designed so that the cost savings exceed the bond debt service.

HB 12 authorizes the Board of Examiners to issue up to \$3.75 million in G.O. bonds for SBEC. In addition, HB 12 grants the Department of Environmental Quality a biennial appropriation of \$400,000 from the bond proceeds to fund analysis, design, and program administration.

ST. MARY FACILITY REHABILITATION

The St. Mary facilities of the Milk River, located on the Blackfeet Indian Reservation and owned by the U.S. Bureau of Reclamation's (USBR), are in urgent need of rehabilitation. The facilities are the keystone to large-scale irrigated agriculture in the Milk River Basin and the water supply of the townships along the river. This complex water delivery system has operated for over 85 years, and its deteriorated condition raises serious concerns. In the recent past, numerous problems and failures have plagued the system. The Department of Natural Resource and Conservation has indicated that catastrophic system failure is imminent if rehabilitation is postponed too long. Without the imported water from the St. Mary River Basin, irrigated agriculture in the Milk River Basin and the influx of dollars it generates will cease to exist. Failure of the canal, siphons, or drop structures may also result in environmental damage. In recognition of the magnitude of the St. Mary's problem, the 2005 Legislature took steps to begin rehabilitation of the system, but it is questionable whether the job can be completed without federal funding.

The St. Mary System is a vital component of Montana's infrastructure, and rehabilitation of the system is critical. The system supplies water for 120,731 irrigated acres, nine municipalities (among them Havre, Chinook, and Harlem), the Bowdoin National Wildlife Refuge, and provides numerous other fish, wildlife, and recreation benefits. The Fort Belknap Water Rights Compact is predicated on the continued viability of the St. Mary facilities to deliver water to the Milk River Basin. Without rehabilitation of the system, the compact may be negated. Furthermore, the USBR has determined that the current St. Mary diversion facilities are negatively impacting the population of the bull trout, which is listed as a threatened species.

The St. Mary facilities, constructed between 1906 and 1919, transfer water from the St. Mary River Basin to the Milk River Basin through a complex diversion system. The facilities consist of a storage dam (Sherburne Dam), diversion dam, a head gate, 29 miles of canal, 2 sets of steel siphons, and 5 concrete drop structures. Most of the structures have exceeded their design life and are in need of major repairs or replacement. The siphons are plagued with slope stability problems, metal fatigue, concrete deterioration, and leaks. The concrete drop structures are severely deteriorated. Landslides along the canal route and numerous structural deficiencies leave the canal unstable and restricted. The canal capacity has declined significantly. Failure of one of the drop structures in 2002 caused a shutdown of the canal for two months during the irrigation season.

The costs to rehabilitate the system are high and help is needed from the federal government. The USBR released a report in 2003 that estimated construction costs for rehabilitating the St. Mary facilities between \$75 million and \$125 million depending on canal capacity, a cost too high for the irrigators of the Milk River Basin or the state to bear. The cost to operate and maintain the St. Mary facilities has been borne by irrigators through an annual assessment on their irrigated lands, but according to the USBR, the ongoing costs of maintaining the system exceed the irrigator's operation and maintenance payments. USBR recently completed a regional feasibility study, yet the resulting report was not sufficient to present to Congress for authorization and funding. System rehabilitation, with a price tag of over \$90 million, will be difficult to accomplish without the help of federal funding.

Understanding the need for the rehabilitation of the St. Mary facilities, the 2005 Legislature took several steps to get the rehabilitation work started. In earlier biennia, the legislature has only appropriated funds to repair serious system problems, but the 59th Legislature took a more pro-active position in relation to the project. One important action taken by the legislature was to approve SJ 9, a joint

resolution requesting federal funding for the rehabilitation of the St. Mary diversion facilities and urging the support of the Montana congressional delegation. With its passage, the legislature sent a strong message to Congress about the importance of the project to Montanans. In addition to the resolution, the legislature appropriated almost \$12 million for the initial project work. The figure below shows the appropriations approved in the 2005 session and a short description of each appropriation follows.

Figure 8				
St. Mary Project Legislation				
Bill No.	Appropriation	Description	Source	Amount
HB 2	Hydrologist and Engineer	Two new FTE	RIT	\$246,526
HB 2	DNRC Staff	Ongoing staff support	RIT	240,000
HB 6	Halls Coulee Siphon Repair	Expansion joints and siphon supports	RRGL Grants	100,000
HB 7	Engineering Studies	Engineering and related studies to support working group	RDGP Grants	900,000
HB 11	Glacier County, St. Mary Bridge	New bridge construction	TSEP Grants	500,000
HB 540	Construction Match, to Federal Funding	Bond proceeds for a match of federal funds for construction projects	Bond Proceeds	<u>10,000,000</u>
Total St. Mary Project Funding:				<u>\$11,986,526</u>

HB 2 – Two appropriations amounting to \$486,526 were made in the general appropriations act for the St. Mary facility project. Using resource indemnity trust (RIT) interest, a hydrologist and engineer will be hired to work on the design of facility upgrades. Another appropriation supplied state special revenue funds to allow DNRC staff to continue their work on the project.

HB 6 – One appropriation of \$100,000 of Renewable Resource Grant (RRGL) funds was approved for the Milk River Irrigation Project Joint Board of Control. The grant will fund the replacement of five failed expansion joints and four concrete saddle supports on the Hall's Coulee.

HB 7 – The appropriation of \$900,000 of Reclamation and Development Grant (RDGP) funds will serve as a match to federal appropriations to evaluate the St. Mary facilities and any previous studies performed by the USBR. The planned result is a selection of project alternatives, a National Environmental Policy Act evaluation, preliminary cost estimates, and preliminary project designs.

HB 11 – The appropriation of \$500,000 of Treasure State Endowment Grant (TSEP) funds will fund a match to local dollars to replace the hazardous siphon bridge crossing the St. Mary River. The new bridge would be constructed just up river from the existing bridge for automobile traffic. The siphon bridge will remain in place to support the existing siphons until new siphons are constructed.

HB 540 – This legislation appropriates \$10 million in bond proceeds as match for federal dollars for the construction costs of the St. Mary facilities rehabilitation project. This funding is contingent on a federal match, and no funds will be disbursed until a rehabilitation plan has been put into place and construction contracts are let.

In summary, the St. Mary system is an important component of Montana's infrastructure, supplying water to irrigators and towns along the High Line. In operation for over 85 years with only minimal repairs, the system has deteriorated to a point where complete system failure is imminent. Loss of the system would have disastrous economic and environmental consequences for the state. The 2005 Legislature, recognizing the value of the system, took initial steps to begin the costly proposition of rehabilitating the facilities. However, federal funding will be essential in completing the rehabilitation of the St. Mary system.

OTHER APPROPRIATION BILLS

Although a large majority of direct appropriations occur in the general appropriations act (HB 2), other bills may also contain appropriations. The following figure lists all bills in which a separate appropriation was made, totaling \$405.0 million for all funds. The list does not include bills that either establish or change existing statutory appropriations. Supplemental appropriations are not included and are discussed later in this section.

The long-range planning bills are discussed in Volume 4, Section F of this report. HB 447 (State Employee Pay Plan) is discussed on page 105. The other bills are discussed in the narratives of the appropriate agencies in either Volume 3 or Volume 4. A short description of these bills follows.

HB 18 – This legislation extends the state-tribal economic development commission to June 30, 2009, reduces the required quorum from 7 to 6 of the 10 member commission, and appropriates \$120,000 state special revenue and up to \$2 million in federal funds for the purpose of funding the commission's activities.

HB 83 – This legislation revises school district tuition laws, including requiring the Superintendent of Public Instruction to pay tuition for out-of-district students in certain situations, and appropriates \$336,000 general fund for the payment of tuition and transportation.

HB 201 – The amount of spending authority that remains from the appropriation for the 2005 biennium (HB 160 of the 2003 session), for natural resource damage assessment and litigation, is re-appropriated for the Department of Justice for the 2007 biennium.

HB 327 – The monthly benefit payment for silicosis claimants is increased by \$50 per month. The legislation appropriates \$54,000 general fund for the increased cost.

HB 423 – This legislation appropriates \$500,000 from the state general fund to the Department of Commerce for the 2007 biennium to purchase the land and purchase or construct a facility for a

Figure 9
Other Appropriation Bills
FY 2005 (see notes) and 2007 Biennium

Bill No.	Description	2007 Biennium (unless noted below)		
		General Fund	State Special	Other Funds ⁵
Long-Range Planning Bills				
HB 5	Long-range building appropriations ¹	\$0	\$160,718,427	\$19,984,000
HB 6	Renewable resource grants	0	5,000,000	0
HB 7	Reclamation and development grants	0	4,900,000	0
HB 8	Renewable resource bonds and loans ²	0	0	0
HB 9	Cultural and aesthetic grant appropriations	0	822,925	0
HB 11	Treasure state endowment appropriation	0	16,900,000	0
HB 12	General obligation bonds for energy conservation program	0	4,150,000	0
HB 299	Long-range building program bonds	0	0	5,100,000
HB 540	Bonding for higher education and other state projects	0	0	67,500,000
HB 748	General obligation bonds for water resource projects	0	0	5,000,000
	Sub-Total	\$0	\$192,491,352	\$97,584,000
Other Appropriation Bills				
HB 18	Extend duration of state-tribal economic development commission	\$0	\$120,000	\$2,000,000
HB 83	Revise school district tuition payments	336,000	0	0
HB 201	Fund natural resource damage litigation	0	440,000	0
HB 327	Increase silicosis benefits	54,000	0	0
HB 423	Provide funding for great plains dinosaur park in Malta	500,000	0	0
HB 438	Braille literacy services for blind or visually impaired children	440,004	0	0
HB 440	Require locks on anhydrous ammonia storage tanks	80,000	0	0
HB 447	Increase state employee pay	37,610,585	22,311,185	14,661,267
HB 484	Mobile meat processor licensing and inspection	88,894	0	0
HB 512	Appropriate federal funds for local rail freight assistance programs	0	0	1,100,000
HB 522	Study design of state dental program	10,000	0	0
HB 550	Fund youth leadership forum for students with disabilities	100,000	0	0
HB 552	Change asset test for children for medicaid	0	1,876,316	0
HB 577	Appropriate money to fund rape kits and examinations	61,000	0	0
HB 713	Fund national guard and military mission assessment and promotion ³	100,000	0	0
HB 740	Appropriate money for asbestos-disease related programs	0	175,000	0
HB 742	Create registry for declarations concerning life-sustaining	80,000	0	0
HB 749	Revise nursing home bed tax	0	9,500,000	22,502,947
HB 761	Life insurance premium reimbursement for members of national guard/reserve ⁴	0	660,000	0
HB 769	Creating the rail service competition council	0	100,000	0
HB 772	Pay travel expenses for catastrophically injured workers	0	1,000	0
HB 790	Interim study on split estates and coal bed methane reclamation and bonding	0	50,000	0
	Sub-Total	\$39,460,483	\$35,233,501	\$40,264,214
	Total All Bills	\$39,460,483	\$227,724,853	\$137,848,214

Notes: ¹ Amounts shown are appropriated in FY 2005 but authority will carry forward into the 2007 biennium.

² Amount appropriated to a state agency is dependent upon amount loaned to that agency.

³ \$100,000 general fund appropriated in FY 2005.

⁴ \$60,000 of the \$660,000 state special revenue appropriated in FY 2005.

⁵ Other funds can be federal funds, proprietary funds, or capital projects funds.

dinosaur park in Malta, Montana. It allows the department to lease the property to a private, nonprofit entity for the purpose of operating the park.

HB 438 – An amount totaling \$440,004 general fund is appropriated to the Montana School for the Deaf and Blind to establish a Braille equipment loan program and to provide for expansion of the outreach program to assist public school districts in conforming to the requirements of the Blind Persons' Literacy Rights and Education Act.

HB 440 – According to this legislation, administrative rules that address anhydrous ammonia facilities must require a lock on tanks. It appropriates \$80,000 general fund for the 2007 biennium to the Department of Agriculture to fund the purchase and distribution of anhydrous ammonia locks.

HB 484 – A total of \$88,894 general fund is appropriated for the 2007 biennium to the Department of Livestock to implement the provisions of the mobile slaughter facility licensing program created in this legislation.

HB 512 – This legislation appropriates up to \$1.1 million federal funds for the 2007 biennium to provide loans and grants for the preservation and continued operation of railroad branch lines (identified in 60-11-111, MCA) and for the development and improvement of related transportation facilities.

HB 522 – A general fund appropriation of \$10,000 for the 2007 biennium is provided to the Board of Regents for the purposes of a study to determine the feasibility of Montana State University (MSU) making an agreement with the University of Washington (UW) dental school to have first-year dental students complete dental courses at MSU and then transfer to UW for completion of dental education.

HB 550 – This legislation appropriates \$100,000 general fund to the Department of Public Health and Human Services for the 2007 biennium for a grant or to fund a contract to hold a Montana youth leadership forum for students with disabilities, including Indian students on Montana reservations.

HB 552 - The Department of Public Health and Human Services may not apply financial criteria below \$15,000 for resources other than income in determining the eligibility of a child under 19 years of age for poverty level-related children's Medicaid coverage groups. The legislation appropriates \$1,876,316 from the health and Medicaid initiatives state special revenue account to the department for FY 2007 for the purposes of providing Medicaid services for this eligibility group. HB 2 contains an appropriation for federal matching funds related to this item.

HB 577 – This legislation provides a biennial appropriation of \$61,000 general fund to the Department of Justice, Office of Restorative Justice, to be used to cover the costs of providing sexual assault forensic exams for sexual assault victims when the local law enforcement agency is not responsible for the costs.

HB 713 - The Department of Commerce is appropriated \$100,000 general fund in FY 2005 for a task force to conduct a mission assessment for military and National Guard installations in Montana and to promote the establishment of new installations and expanded missions.

HB 740 – This legislation creates an asbestos disease account to be used by the Department of Public Health and Human Services (DPHHS) to provide grants to Lincoln County, for various purposes related

to providing services to asbestos patients. A transfer of \$175,000 general fund to the new account is provided, and the moneys in the account are appropriated to DPHHS for the grants.

HB 742 – This legislation requires the attorney general to establish and maintain a health care declaration registry, accessible through a website maintained by the attorney general, and used to store declarations, pertaining to life-sustaining treatment. It appropriates \$80,000 general fund to the attorney general for the 2007 biennium for the registry and a related public education program.

HB 749 – The utilization fee on nursing facility bed days is increased in each year of the 2007 biennium, increasing the amount available to the Department of Public Health and Human Services to fund increased Medicaid payments to the nursing facilities by leveraging available federal matching dollars. Appropriations of \$9.5 million state special revenue and \$22.5 million federal funds are included in the legislation.

HB 761 – The Department of Military Affairs is to establish a program for reimbursing Montana National Guard and reserve members for the cost of group life insurance premiums when they are on active duty in a military operation against an enemy. The legislation creates a state special revenue account, transfers \$660,000 general fund to the account, and appropriates those moneys from the new account (\$60,000 in FY 2005, \$300,000 in FY 2006, and \$300,000 in FY 2007) to the department.

HB 769 – This legislation creates a rail service competition council, and appropriates \$50,000 from the highways state special revenue account each year of the 2007 biennium to the council, which is administratively attached to the Governor's Office. The council's duties generally are to promote rail service competition in the state of Montana.

HB 772 – The Department of Labor and Industry is required to administer a program for matching funds raised by nonprofit organizations with up to \$2,500 from insurers to assist catastrophically injured workers. An appropriation of \$1,000 state special revenue from the workers' compensation administration fund to the department for the 2007 biennium is provided, to produce information to notify appropriate agencies and groups of the financial assistance available to catastrophically injured workers under this legislation.

HB 790 – The Environmental Quality Council is directed to conduct an interim study on split estates with regard to the ownership of minerals and the ownership of surface property related to oil and gas development, reclamation of surface property affected by coal bed methane development, and bonding requirements for coal bed methane production. An appropriation of \$50,000 state special revenue is provided from an allocation of oil and natural gas production taxes to the Legislative Services Division for the 2007 biennium.

STATUS OF TOBACCO SETTLEMENT FUNDS

Montana receives revenue as a settling party to a master settlement agreement (MSA) with four original tobacco companies (subsequently, this became three) and 43 subsequent companies that ended a four-year legal battle that included 46 states and 6 other entities. Currently, Montana is eligible for two types of payment: 1) on-going annual payments (to be received April 15th); and 2) strategic contribution payments (from FY 2008 through FY 2017). The MSA places no restrictions on how states are to spend the money.

REVENUE

The total amount of tobacco settlement funds available to Montana may be affected by a number of adjustments. The three most important are the adjustments for inflation, volume of cigarettes shipped nationally, and participating manufacturers' loss of market share. Montana's annual share will increase by a minimum amount of 3 percent or more if inflation is greater than 3 percent. The amount will decrease if the number of cigarettes shipped nationally decreases and will increase if the number increases. Proceeds are reduced if it is proven that participating manufacturers have lost a significant portion of market share due to disadvantages caused by the MSA (participating manufacturers did lose market share in 2003). Figure 10 shows the revenue Montana has received through FY 2004 and amounts expected in FY 2005-2007, as estimated by the Revenue and Transportation Interim Committee. Revenues decline due to reductions required in the MSA, declines in the number of cigarettes shipped nationally, and anticipation that participating manufacturers will withhold a portion of their payments in the 2007 biennium until the cause of the loss of market share is proven. Based on testimony from the Montana attorney general staff, the Revenue and Transportation Interim Committee decided to include in the legislature's revenue estimates a reduction in revenue caused by the loss of participating manufacturers' market shares.

Figure 10 Tobacco Settlement and Tobacco Trust Revenues and Distributions								
Tobacco Settlement Revenue Allocations						Tobacco Trust Interest Earnings Allocations		
Current Distribution %	11%	40%	State Special Revenue		100%	90%	10%	100%
Fiscal Year	General Fund	Trust Fund	Treat/Prevention	CHIPS, CHA	Total	State Special	Tobacco Trust	Total
2000 Actual	\$34,804,411	\$0	\$0	\$0	\$34,804,411	\$0	\$0	\$0
2001 Actual*	15,989,101	10,650,750	0	0	26,639,851	98,519	71,172	169,691
2002 Actual	18,647,411	12,431,607	0	0	31,079,018	1,015,407	22,212	1,037,619
2003 Actual	18,699,611	12,466,407	0	0	31,166,018	1,647,194	160,832	1,808,027
2004 Actual**	2,977,777	10,828,281	8,662,625	4,602,020	27,070,703	2,402,846	266,983	2,669,829
2005 Estimate	2,871,220	10,440,800	8,352,640	4,437,340	26,102,000	2,556,900	284,100	2,841,000
2006 Estimate	2,319,240	8,433,600	6,746,880	3,584,280	21,084,000	2,970,900	330,100	3,301,000
2007 Estimate	<u>2,308,680</u>	<u>8,395,200</u>	<u>6,716,160</u>	<u>3,567,960</u>	<u>20,988,000</u>	<u>3,438,000</u>	<u>382,000</u>	<u>3,820,000</u>
Totals	\$98,617,451	\$73,646,646	\$30,478,305	\$16,191,600	\$218,934,002	\$14,129,765	\$1,517,399	\$15,647,165

* In addition, \$1,143 general fund was recorded as prior year revenue.

** In addition, \$22,189 of interest to the trust was recorded as prior year revenue.

DISTRIBUTION

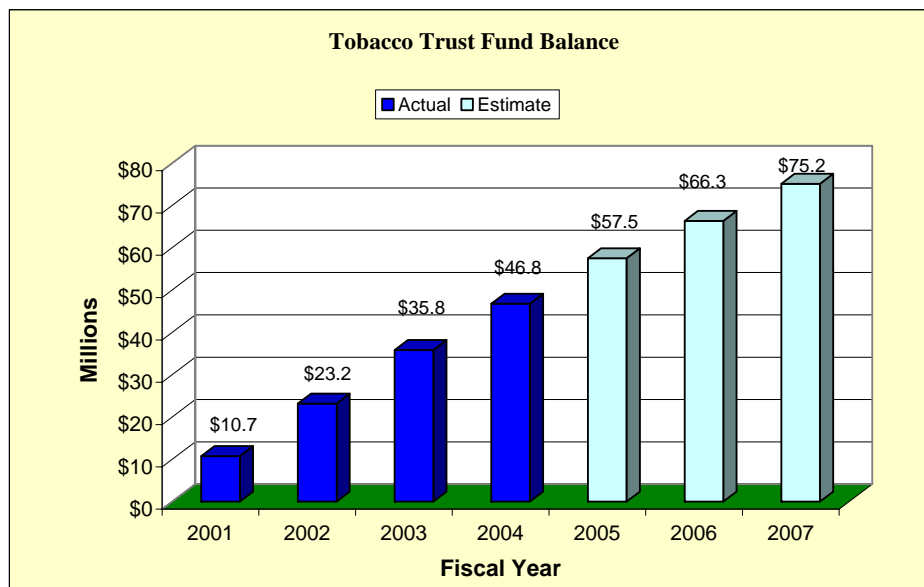
In FY 2000, the revenue received from the MSA was deposited to the general fund. However, due to passage of Montana Constitutional Amendment 35 by the electorate in November 2000, beginning in January 2001, the legislature was required to dedicate not less than 40 percent of tobacco settlement money to a permanent tobacco trust fund. Since the legislature has not yet specified in statute the exact percentage to be distributed to the tobacco trust fund, the revenue estimates assume 40 percent.

From July 2000 to June 2003, 60 percent of the money was deposited into the general fund. Due to passage of Initiative 146 by the electorate in November 2002, beginning July 2003, 32 percent of the total tobacco settlement money funds tobacco prevention/cessation programs, and 17 percent of the total funds the Children's Health Insurance Program and programs of the Comprehensive Health Association (CHA). SB 485 (17-6-606, MCA), enacted by the 2003 legislature, allows the 32 percent allocation to be used for human service programs and the 17 percent allocation to be used to match federal Medicaid money. These allowances terminate the end of June 2005. Money from both allocations can be used for tobacco disease prevention and to fund the Tobacco Prevention Advisory Board. Money not appropriated within two years is transferred to the tobacco trust fund. The remaining 11 percent of the MSA money is deposited to the general fund. SB 485 authorized the transfer of \$5.8 million in FY 2004 and \$6.1 million in FY 2005 from the account receiving the 32 percent allocation to a newly created prevention and stabilization state special revenue account. Figure ____ also shows actual settlement amounts distributed to the general fund, tobacco trust fund, and state special revenue accounts through FY 2004 and the amounts estimated to be distributed in FY 2005-2007.

TOBACCO TRUST FUND

As stipulated in the Montana Constitution, interest earnings from the tobacco trust are to be distributed: 1) 90 percent for appropriation by the legislature for disease prevention programs and state programs providing benefits, services, or coverage related to the health care needs of the people of Montana; and 2) 10 percent to the tobacco trust. Money in the tobacco trust can be spent if approved by 2/3 of each house of the legislature. Appropriations of principal, income, or interest from the trust fund cannot be used to replace state or federal money that supports tobacco disease prevention programs that existed

Figure 11



on December 31, 1999. The tobacco trust fund began receiving deposits of settlement proceeds and interest earnings in FY 2001. Figure 11 shows the fiscal year end fund balances through FY 2004 and the balances estimated by the legislature for FY 2005-2007.

CIGARETTE AND TOBACCO TAX FUNDS: INITIATIVE I-149

One of the most significant policy and appropriation issues considered by the 2005 Legislature was implementation of citizen Initiative 149 (I-149) passed by voters in November 2004, which:

- Raised taxes on tobacco products, most notably a \$1 increase per pack of cigarettes
- Created the health and Medicaid initiatives account for receipt of tobacco tax revenues
- Established uses for I-149 revenues:
 - State matching funds to maximize enrollment of eligible children in CHIP
 - Need based prescription drug program for children, seniors, chronically ill, and disabled persons
 - Increased Medicaid services and Medicaid provider rates
 - Tax credits for small employers for assistance in providing health insurance to their employees

I-149 is codified in Title 53 Chapter 6 part 12, MCA.

REVENUE ESTIMATE

Figure 12 shows the revenue estimate for the health and Medicaid initiatives account. In total, the account is projected to receive \$99 million from implementation through the end of FY 2007. These estimates are as included in HJR 2, the revenue estimating resolution.

Figure 12

Cigarette and Tobacco Tax Revenue Estimates

Based on Revenue & Transportation Interim Committee Assumptions

Old Law vs. New Law / Fiscal 2005, 2006, 2007

In Millions

Cigarette Tax	FY 2005 Old Law	FY 2005 New Law	FY 2006 Old Law	FY 2006 New Law	FY 2007 Old Law	FY 2007 New Law	3 Years Old Law	3 Years New Law
Tribal Payments	0.803	0.803	1.195	1.735	1.166	2.234	3.164	4.772
General Fund	34.639	34.608	33.321	33.193	32.397	32.030	100.357	99.831
Long-Range Building Program	1.704	1.849	1.639	1.914	1.594	1.847	4.937	5.610
State Veterans' Nursing Home *	3.289	4.826	3.164	6.109	3.077	5.895	9.530	16.830
Health & Medicaid Initiatives	<u>0.000</u>	<u>16.867</u>	<u>0.000</u>	<u>32.383</u>	<u>0.000</u>	<u>31.249</u>	<u>0.000</u>	<u>80.499</u>
Totals	<u>\$40.435</u>	<u>\$58.953</u>	<u>\$39.319</u>	<u>\$75.334</u>	<u>\$38.234</u>	<u>\$73.255</u>	<u>\$117.988</u>	<u>\$207.542</u>
Change	\$18.518		\$36.015		\$35.021		\$89.554	

Moist Snuff & Other Tobacco Tax								
Tribal Payments	0.085	0.085	0.107	0.163	0.110	0.223	0.302	0.471
General Fund	3.687	3.677	3.760	3.779	3.855	3.847	11.302	11.303
Health & Medicaid Initiatives	<u>0.000</u>	<u>1.861</u>	<u>0.000</u>	<u>3.779</u>	<u>0.000</u>	<u>3.847</u>	<u>0.000</u>	<u>9.487</u>
Totals	<u>\$3.772</u>	<u>\$5.623</u>	<u>\$3.867</u>	<u>\$7.721</u>	<u>\$3.965</u>	<u>\$7.917</u>	<u>\$11.604</u>	<u>\$21.261</u>
Change	\$1.851		\$3.854		\$3.952		\$9.657	

All Tobacco Taxes Combined	\$44.207	\$64.576	\$43.186	\$83.055	\$42.199	\$81.172	\$129.592	\$228.803
Change	\$20.369		\$39.869		\$38.973		\$99.211	

* The greater of 8.3 percent or \$2.0 million. Excess above \$2.0 million at the end of fiscal year is returned to the general fund.

The revenue estimates are based on consumption declines of about 20 percent, based on similar states' experiences. However, legislative appropriations are less than the estimated revenues shown in Figure 12. The legislature was concerned about the level of revenue that would be received over the time period and lowered overall appropriations. The legislature also added language to two major pieces of legislation to implement the programs anticipated by I-149, with the thought that program expenditures would be scaled back if projected revenues were inadequate to cover appropriations. The legislation and language is discussed in the following narrative.

LEGISLATIVE ACTIONS

The legislature passed two bills (SB 324 – prescription drug program and HB 667 – health insurance tax credits and premium assistance for small employers) to implement I-149 and made various appropriations in HB 2.

State Pharmacy Access and Prescription Drug Access (SB 324)

SB 324 embodies the components of I-149 (53-6-1201(3)(b), MCA) that allow for funding from the health and Medicaid initiatives account for a prescription drug program. DPHHS administers the program and SB 324 establishes the following program components:

- State pharmacy access to complement the new Medicare drug benefit (Part D)
- Pharmacy information access
- Pharmacy plus program

Total program expenditures are limited to the appropriated amounts, so DPHHS may have to establish enrollment limits for some program components. The legislature appropriated \$20 million state special revenue over the biennium from the health and Medicaid initiatives account (\$16 million) and rebates from drug manufacturers participating in the pharmacy plus program (\$4 million). The funding supports 9.0 new FTE and operating costs for program administration, but the lion's share of the appropriation (\$15 million) supports direct services to individuals. The \$5 million appropriation for administrative costs also includes the cost to provide pharmacy assistance to Montanans who telephone or visit the website that is to be established by DPHHS.

SB 324 also includes a provision requiring the Office of Budget and Program Planning (OBPP) to estimate the revenues for the health and Medicaid initiatives account by July 1 for each coming fiscal year of the biennium. If projected revenues are below the amount appropriated from the account, OBPP must notify DPHHS, and DPHHS must change the operating plan for the program to reflect the available revenue.

State Pharmacy Access Program

The state pharmacy program is designed to complement the new Medicare Part D drug benefit. Enrollment in the state program must be opened at the same time enrollment commences for the Part D benefit. Other program components include:

- Eligibility – family income up to 200 percent of the federal poverty level and individual must submit proof of enrollment in Medicare Part D
- Benefits – full or partial payment of the Part D premium and, depending on funding availability, payment of a portion of the deductible

Prescription Drug Information and Technical Assistance Program

SB 324 also establishes prescription drug and consumer information and technical assistance programs in DPHHS to provide Montana residents with advice on the prudent use of prescription drugs and how to access government and private prescription drug programs and discounts. DPHHS is required to:

- Provide consultation by licensed pharmacists with individuals on how to avoid dangerous drug interactions and provide for substitution of more cost-effective drugs
- Create educational resources, including a website

Pharmacy Plus Discount Program

SB 324 also provides for use of health and Medicaid initiatives account funds for a pharmacy plus discount program (53-6-1002, MCA) if DPHHS determines that there are excess funds remaining from the appropriation for the Part D state pharmacy program. The pharmacy plus discount program:

- Provides discounted prices for prescription drugs for persons with incomes below 250 percent of the federal poverty level
- Allows establishment of a secondary discounted price for generic drugs, depending on funding availability
- Establishes a state special revenue account for receipt of drug rebate revenues from drug manufacturers participating in the program
- Limits program expenditures to available funding

Health Insurance Premium Assistance Program for Small Employers

HB 667 implemented a second important component of I-149 – assistance in providing health insurance for small employers by establishing:

- Tax credits for small employers purchasing health insurance
- A health insurance purchasing pool
- Premium assistance

The State Auditor will administer the program, which is discussed in greater detail in the Office of State Auditor, Volume 3 of the Fiscal Report. DPHHS received funding for 1.00 FTE to develop and implement a Medicaid waiver to provide premium assistance for low-income workers of small employers and federal matching funds in FY 2007 to help fund Medicaid services. The State Auditor will provide the necessary state match. In order to be eligible:

- Employers must have two to nine employees and not currently offer health insurance and begin to do so by:
 - Opting into the small employer health insurance purchasing pool, or
 - Joining a qualified association plan
- Employees must not be eligible for Medicaid or CHIP and have incomes below 200 percent of the federal poverty level and meet the following criteria:
 - Uninsured adults ages 19 through 64 who have children under the age of 21
 - Youths age 18 to 21
 - HB 667 included the same amendments as SB 324 regarding adjustments of program operating budgets if revenue forecasts made by OBPP show that the funds received by the health and Medicaid initiatives account will be insufficient to fund the appropriations from the account.

HB 2 Appropriations for Medicaid, CHIP, and Other Services

The legislature also appropriated health initiative and Medicaid funds to support CHIP, Medicaid service expansions and provider rate increases, and other services. While the legislature accepted the executive proposals for Medicaid provider rate increases funded from I-149 funds, state match for CHIP and Medicaid services, and children's special health services, it also expanded provider rate increases, added funds for direct care worker wage increases, and expanded Medicaid eligibility for children, raising asset limits for a family from \$3,000 to \$15,000 (HB 552). Figure 13 shows each appropriation made from I-149 in HB 2 and HB 552. Appropriations marked with an asterisk are those added by legislative initiative.

Figure 13

Legislative Appropriation of I-149 Funds and General Fund to Delay Use of I-149 Until 1/1/06

Description of Appropriation, Agency, HB 2, and HB 552	Biennial Approp.		% of Ttl
	General Fund	I-149	I-149
APPROPRIATIONS IN HB 2 - DPHHS			
PRESCRIPTION DRUG PROGRAM - SB 324	\$0	\$15,750,000	26%
SMALL EMPLOYER PREMIUM ASSISTANCE - HB 667	0	34,574	0%
MEDICAID DIRECT CARE WORKER WAGE INCREASES			
<u>Direct Care Worker Wage Increases</u>			
Nursing Homes and Aging/Disabled Community	\$1,000,000	\$3,000,000	5%
DD Provider Wages - 25th to the 35th Labor Market Percentile	475,000	1,425,000	2%
Children's Mental Health Direct Care Worker Wage Increase	0	875,000	1%
Nursing Home/Community Services Direct Care Wage Initiatives	271,873	815,618	1%
Total Medicaid Direct Care Worker Wage Increase Proposals	<u>\$1,788,940</u>	<u>\$6,115,618</u>	<u>10%</u>
MEDICAID PROVIDER RATE INCREASES			
<u>Rate Increases</u>			
Nonhospital Service Provider Rate Increase; Dental Access	\$858,952	\$3,112,824	5%
3% Nursing Home/Community Services Provider Rate Increase	720,004	2,194,923	4%
Children's Mental Health 6% Rate Increase			0%
Physician Rate Increase to 85% of Medicare Rate	400,000	1,200,000	2%
EPSDT, Hospitals, Critical Access Hospitals, Ambulatory Surgical Centers	0	824,067	1%
Cardiac and Pulmonary Rehabilitation	0	177,215	0%
Total Medicaid Rate Increase Proposals	<u>\$1,978,956</u>	<u>\$7,509,029</u>	<u>12%</u>
MEDICAID SERVICE EXPANSIONS			
Raise Medicaid Asset Test - Children (Appropriation in HB 552)	0	1,876,316	3%
Home/Community Waiver Services for Mentally Ill Adults	0	631,601	1%
Expand Intensive Community Rehab. Beds by 7 - Adults	0	256,194	0%
Community Services Expansion (20 New Senior/Disabled Slots)	0	825,829	1%
Flexible Funds for Waiver for Seriously Emotionally Disturbed Children	0	50,000	0%
Subtotal Medicaid Service Expansions		<u>3,639,940</u>	<u>6%</u>
Total Medicaid Rate and Service Expansions Funded	<u>\$1,978,956</u>	<u>\$11,148,969</u>	<u>18%</u>
OTHER APPROPRIATIONS FROM I-149 FUNDS			
Mental Health Services Plan/HIFA Medicaid Match in FY 07	0	6,500,000	11%
Medicaid Matching Funds	0	3,976,371	7%
CHIP Enrollment Including Expansion to 13,900 Children	1,215,680	4,537,298	7%
Additional Clinic Children's Specialty Health Clinic	0	75,000	0%
Total Other I-149 Appropriations	<u>\$1,215,680</u>	<u>\$15,088,669</u>	<u>25%</u>
Total I-149 Recommendations Funded for DPHHS	<u>\$4,983,576</u>	<u>\$48,137,831</u>	<u>79%</u>
APPROPRIATIONS IN HB 2 - STATE AUDITORS' OFFICE			
SMALL EMPLOYER PREMIUM ASSISTANCE - HB 667	\$0	\$7,570,376	12%
SMALL EMPLOYER TAX CREDITS - HB 667	0	5,176,330	9%
Grand Total Appropriations	<u>\$4,983,576</u>	<u>\$60,884,537</u>	<u>100%</u>
Subtotal Legislative Initiatives	<u>\$1,400,000</u>	<u>\$6,951,316</u>	<u>11%</u>

Some appropriations for rate increases in Figure 13 include general fund. The legislature structured the appropriations from I-149 funds to delay use of revenues flowing into the health and Medicaid initiatives account so that the cash balance could reach \$25 million as quickly as possible. The Office of Budget and Program Planning also pledged to give Medicaid and CHIP appropriations highest priority in establishing the order in which appropriations would be funded from the health and Medicaid initiatives account if forecast revenues were insufficient to fund all appropriations from the account. OBPP delivered a letter stating such intent to the Senate Finance and Claims Committee and provided copies of the letter to the Legislative Finance Committee. In response to the pledge from OBPP, the legislature removed language from HB 2 making the appropriations for the following divisions contingent on implementation of provider rate and direct care worker wage increases by July 15, 2005: Health Resources, Disability Services, Senior and Long Term Care, and Addictive and Mental Disorders.

The legislature appropriated nearly \$61 from the health and Medicaid initiatives account. DPHHS received \$48 million appropriated in HB 2 and HB 552 (raise Medicaid eligibility for children). The State Auditor received about \$13 million for tax credits and other types of health insurance premium assistance for small employers.

The prescription drug and assistance program created by SB 324 received 26 percent, the largest share, of funding from the health and Medicaid initiatives account. Other types of expenditures and the funding each received are:

- Medicaid provider rate increases - \$7.5 million
- Mental Health Services Plan and state Medicaid match - \$6.5 million
- Medicaid direct care worker wage increases - \$6 million
- CHIP matching funds - \$4.5 million
- Medicaid services expansions (including HB 552) - \$4 million
- Medicaid matching funds - \$4 million

OFFICE OF STATE PUBLIC DEFENDER

OVERVIEW

The 2005 legislature passed SB 146, which established the Office of State Public Defender. This legislation is partially in response to a lawsuit filed in district court by the American Civil Liberties Union (ACLU) against the State of Montana and Missoula County. The ACLU alleges that criminal defendants that are indigent are not being provided public defender services in a fair and consistent manner among jurisdictions. Also, the ACLU argues that the current system of public defense in the state creates a conflict of interest when the judge appoints a public defender for a case being adjudicated by that judge. The attorney general and the ACLU signed a stipulation placing the lawsuit on hold pending the actions of the legislature and the outcome of the proposed legislation. After the legislation was passed, the ACLU sent a letter to the district judge asking that the trial date be cancelled indefinitely. However, part of the settlement agreement states that the public defender system must be adequately funded by the state. The ACLU is still reviewing this issue.

SB 146

The public defender system as passed by SB 146 provides public defender services in criminal and certain civil cases for any individual who is: 1) determined to be financially unable to retain private counsel; and 2) accused of an offense that could result in the person's loss of life or liberty should the person be convicted. The new system will provide public defender services in the Supreme Court or in any district court, justice court, city or municipal court in the state. A Public Defender Commission, comprised of seven individuals appointed by the Governor, will head the statewide system. The commission will oversee a Chief Public Defender Office responsible for managing regional public defender offices, contracts with private attorneys, and the appellate defender function.

FUNDING/COSTS

The cost estimates for the public defender system for the 2007 biennium were primarily gathered from the Administrator of the Supreme Court, the Department of Corrections, the Appellate Defender, county-managed and public defender offices. These costs include payments for public defender services provided by seven county-managed public defender offices through the state, services provided by private attorneys, transcripts, private investigator services, and witness fees and expenses.

FY 2006 will be a year of transition, whereby the commission and the chief public defender will undertake a process to convert the current system of services provided by the state and the collective counties and cities, to one that provides services in a statewide system.

The legislation provides that the costs of the statewide system be shared by the state and by each county and city. The percentage that each entity currently contributes to the total costs of the current system forms the cost sharing formula. The amount of this cost sharing will be deducted from each entity's entitlement.

The legislature provided this office with total funding of \$14.6 million for the 2007 biennium. Of this funding, approximately \$8.1 million and 1.50 FTE will be transferred from the Judiciary's District Court Assumption program to the new office in FY 2007. These costs were primarily for public defender services provided by county-managed public defender offices or by private attorneys that contract with the state. Approximately \$0.2 million and 3.00 FTE will be transferred from the Appellate Defender at the beginning of FY 2007. Approximately \$0.1 million will be transferred from the Department of

Corrections at the beginning of FY 2007. There were 5.50 new FTE in FY 2006 and 20.00 FTE in FY 2007 authorized to manage and administer this office. Also, there were 42.00 FTE attorneys and 23.75 support staff transferred from county and city governments in FY 2007. Please refer to the figure below.

Figure 14				
Office of State Public Defender				
Sources of FTE and Funding				
2007 Biennium				
	FTE		General Fund	
	FY 2006	FY 2007	FY 2006	FY 2007
Transfer of FTE and funding:				
From Judiciary	0.00	1.50	\$0	\$8,137,160
From Appellate Defender	0.00	3.00	0	205,261
From Department of Corrections	0.00	0.00	0	50,141
From local government	0.00	65.75	0	0
Local government entitlement payments	0.00	0.00	0	2,559,141
New state FTE and funds	5.50	20.00	527,729	3,182,414
Total FTE and funding	<u>5.50</u>	<u>90.25</u>	<u>\$527,729</u>	<u>\$14,134,117</u>
Total funding for 2007 biennium				<u>\$14,661,846</u>

Because the 2007 biennium will be a transitional biennium for the new statewide public defender system, funding for the 2009 biennium is expected to be roughly two times the FY 2007 amount or \$28.3 million.

FISCAL 2005 SUPPLEMENTAL APPROPRIATIONS

The legislature provided state agencies with an additional \$55.3 million general fund from supplemental appropriations in FY 2005 in HB 745, HB 332, and HB 271.

Figure 15 compares this total with supplemental appropriations since the 1987 biennium. As shown, the 2005 biennium total is among the highest in recent biennia.

This situation is due primarily to two partially offsetting factors in the 2005 biennium.

- Fire season costs have the lowest general fund obligations in many biennia. While the fire season in FY 2004 was severe, almost the entire state cost was paid by either the Federal Emergency Management Agency (FEMA) or through a portion of the \$50 million non-specific Jobs and Growth grants by the federal government. Governor Martz authorized the expenditure of over \$37 million of the federal funds for fires. In addition, the FY 2005 fire season was mild, although continuing drought conditions could increase anticipated spring fires beyond the level anticipated in this supplemental.
- The legislature, upon recommendation of both Governor Martz and Governor Schweitzer, paid off three obligations of the state with one-time revenues received in the 2005 biennium to reduce general fund obligations in future years:
 - The Crow Tribe settlement (\$9,000,000);
 - All Department of Revenue IRIS computer system debt service and contractor payments (\$16,000,000); and
 - A settlement of two lawsuits brought by members of the Montana Highway Patrol (\$8,500,000).
- Each is discussed in more detail below.

Biennium	Millions
1987	\$32.7
1989	17.1
1991	20.4
1993	82.2
1995	19.9
1997	14.2
1999	11.5
2001	68.2
2003	12.5
2005	55.3

Figure 16 shows each supplemental appropriation, by agency and purpose. Following the figure is a brief description of each.

Figure 16		
Supplemental Appropriations		
Fiscal 2005		
Department/Program	General Fund	Other Funds
Public Health and Human Services		
Child and Family Services	\$1,669,184	
Medicaid	2,000,000	
Child Support Enforcement	857,058	
Low Income Energy Assistance*	903,255	
Corrections		
Secure Care/Community Corrections	4,415,657	
Justice		
Legal Services Major Litigation	200,000	
Highway Patrol Retirement	363,762	
Exempt Staff Payout	24,000	36,000
Highway Patrol Settlement	8,500,000	
Governor		
Exempt Staff Payout	163,683	
Ombudsman Replace Federal Funds	135,123	
Commissioner of Political Practices		
Exempt Staff Payout	10,262	
Judiciary		
District Court Reimbursement/State Hospital	6,800,000	
DNRC		
Fire Costs	2,000,000	
Crow Tribe Settlement	9,000,000	
Agriculture		
BSE Testing	41,318	
Commerce		
Worker Training Program**	2,170,000	
Revenue		
Payoff IRIS Loan/Contractor Payments	13,900,000	
Administration		
IRIS Contract Payments	<u>2,100,000</u>	
Total	<u>\$55,253,302</u>	<u>\$36,000</u>
*Contained in HB 332.		
**Contained in HB 271		

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES (DPHHS)

The legislature provided four supplemental appropriations to DPHHS:

- Child and Family Services Division – The division received additional funds due to audits done both by the federal government and internally that revealed that a number of children that had been thought to be eligible for partial federal funding were not eligible, obligating the state for the entire cost of care. The department mitigated a portion of the additional costs through a variety of actions and requested a supplemental appropriation for the remainder.
- Medicaid – The department had initially anticipated saving a portion of the cost of Medicaid to address the shortfall in the Child and Family Services Division. However, rising caseload resulted in costs over the amount originally estimated.
- The Child Support Enforcement Division has experienced a loss of funds used to both support the program and match additional federal funds: 1) state funds from retention of the state share of child support collections due primarily to lower TANF caseloads; and 2) federal funds due primarily to a reduction in incentive payments. The legislature added funds to address these ongoing issues.

- Low Income Energy Assistance Payments (LIEAP) were increased to provide additional energy assistance to low income persons to supplement the federal funds that traditionally provide exclusive support to the program. (The legislature also added general fund in the 2007 biennium to assist with anticipated higher energy costs.)

DEPARTMENT OF CORRECTIONS

The legislature added funds to the Department of Corrections for three reasons:

- Population growth has exceeded projections by about 435 average daily population, which adds about \$2.3 million
- Vacancy savings targets were not met, resulting in an additional expense of \$2.3 million
- Other overruns totaled \$1.7 million and include outside medical, increased utility costs, costs related to the new Eastmont campus, and overtime

These costs are partially offset by reductions (\$1.9 million) due to the utilization of both federal one-time grant funds and the Governor's personal services contingency.

The estimate was increased by a further \$1.03 million general fund at the end of the legislative session. However, the legislature did not fund this additional estimate, and the department will be required to mitigate the anticipated increase.

DEPARTMENT OF JUSTICE

The legislature provided the Department of Justice with four supplemental appropriations:

- Legal Services Major Litigation – The department is responsible for representing the state in major litigation. The legislature provided an additional \$200,000 to the \$400,000 provided in the 2005 biennium for costs associated with a number of cases.
- Highway Patrol Retirement – General fund is appropriated to fund certain highway patrol retirement costs. Due to an oversight in the previous budget, an insufficient appropriation was made. This appropriation fully funds the state's obligation in FY 2005. These funds will be statutorily appropriated in the 2007 biennium.
- Exempt Staff Payout – The legislature funded the retirement payout costs of a long-time state employee.
- Highway Patrol Settlement – The State of Montana recently settled two lawsuits brought by members of the Montana Highway Patrol. The first case centered around compensation for lunch and the calculation of overtime and cost \$7,650,000. The second involved certain wage claims brought by 16 highway patrol officers and cost \$850,000. The total cost of the two settlements was \$8.5 million, which the legislature chose to completely fund with general fund in FY 2005.

GOVERNOR'S OFFICE

General fund was provided to the Governor's Office for two purposes:

- Termination payouts for members of Governor Judy Martz's exempt staff who left state government.
- Replacement of federal funds utilized by the previous legislature to fund a portion of the costs of the Mental Health Ombudsman. Medicaid funds appropriated to fund a portion of the costs of the office were determined to be inappropriate by the federal government, resulting in a replacement of those costs with general fund, and a repayment of prior expenditures.

COMMISSIONER OF POLITICAL PRACTICES

The term of the previous commissioner expired at the end of calendar 2004. The legislature provided funds to allow the office to make all termination payouts, including unused sick and annual leave.

JUDICIARY

The supplemental for the Judiciary consists of two additions:

- District court operations - The Judiciary assumed the costs of district courts in FY 2003. Costs in the 2005 biennium significantly exceeded the appropriation due primarily to higher variable costs (those costs associated with caseload), particularly in indigent defense. In addition, the Judiciary was able to utilize carryover funds from the 2003 biennium that will no longer be available. This portion of the supplemental appropriation totals \$5.8 million.
- Payments to Montana State Hospital (MSH) - The Judiciary is responsible for paying the costs of commitment to MSH of defendants under a district court order to determine the fitness of an individual to proceed in a criminal case against that individual. MSH assumed these costs in prior years, but will now bill the Judiciary. The legislature added \$1,000,000 to pay MSH. Because these funds will be deposited to the general fund, there is no impact on the ending fund balance.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

The legislature provided two appropriations to the department in FY 2005: 1) fire costs; and 2) payment of all Crow Tribe settlement obligations.

Fire Costs

The legislature does not appropriate for the costs of fire suppression in HB 2, and does not assume any costs when projecting the ending fund balance. Instead, DNRC pays these costs out of current operating appropriations and is reimbursed through a supplemental appropriation. The supplemental appropriation for fire costs consists of the following parts:

- Payment of direct state FY 2005 fire costs not paid by other sources;
- Reimbursement for costs to fight FY 2004 fires;
- Payment to the U.S. Forest Service for assistance from other entities; and
- The estimated cost of Spring 2005 fires.

As stated earlier, costs in the 2005 biennium were significantly below prior years, despite a severe fire season in FY 2004. Figure 17 shows the supplemental fire appropriations for the past 12 biennia.

The federal government provided funding from two sources:

- FEMA funds are available whenever fires meet the federal criteria, including imminent danger to life and/or property. Because a number of fires met these criteria, FEMA paid a portion of those costs. The state is required to provide a 25 percent match.
- The federal government provided states with a one-time grant in the 2005 biennium to aid states in addressing the fiscal crisis experienced by most states. Montana received a total of \$50 million in

Biennium	Supplemental Appropriation	Statutory Appropriations	Total
1983	\$0.80	\$0.00	\$0.80
1985	2.90		2.90
1987	3.74		3.74
1989	12.64		12.64
1991	3.00	0.50	3.50
1993	7.94	1.96	9.90
1995	15.50	8.92	24.42
1997	4.47	3.10	7.57
1999	10.55		10.55
2001	33.22	6.20	39.42
2003	9.07	7.01	16.08
2005	2.00		2.00

grants. Governor Martz used these funds to pay fire costs normally paid for by the general fund. If these funds had not been used, the supplemental appropriation would have been about \$37.0 million higher.

While FEMA participation is on going, the grant to the state of \$50 million is a one-time occurrence that cannot be assumed in future years. Therefore, this level of biennial general fund required for fire costs is unlikely to ever be repeated.

Crow Tribe Payments

As the result of a settlement of a lawsuit, the state was ordered to pay the Crow Tribe \$15 million over 15 years beginning in FY 2000. Both Governor Martz and Governor Schweitzer recommended and the legislature concurred with setting aside funds equal to the entire remaining obligation of \$9.0 million in FY 2005 and eliminating any future obligation on the general fund.

DEPARTMENT OF AGRICULTURE

The legislature provided general fund of \$41,318 for additional testing of animals crossing the Canadian border to determine if there is any evidence of mad cow disease (BSE).

DEPARTMENT OF COMMERCE

The 2003 Legislature passed HB 564, which provided for grants to businesses that met certain job creation criteria. The grants were funded through an INTERCAP loan. Governor Schweitzer recommended and the legislature concurred that these grants were not an appropriate use of the INTERCAP loan program and instead should be funded with general fund. This supplemental appropriation funds all anticipated grants in FY 2005. Any grants in the 2007 biennium will also be funded with general fund.

DEPARTMENT OF REVENUE

The replacement for the failed POINTS system is the Integrated Revenue Information System (IRIS). Upon recommendation of both Governor Martz and Governor Schweitzer, the legislature paid off the entire outstanding loan amount for the IRIS system of \$13.9 million.

DEPARTMENT OF ADMINISTRATION

As part of the payoff of all IRIS related costs, \$2.1 million was provided to the Department of Administration to settle all current contractor payments.

OTHER

In addition to the appropriations made, the legislature approved two contingency appropriations.

- The legislature estimates the amount of common school trust interest and income payments that will be available to support K-12 schools, and provides the remaining funding with general fund. Consequently, if interest and income moneys are estimated too high, there may be insufficient appropriations to fund all statutory obligations for Base Aid or guaranteed tax base. The legislature provided an appropriation of up to \$3 million for this contingency.
- Costs of district courts are estimated in HB 2. The Judiciary was given a contingency appropriation of up to \$500,000 general fund should costs exceed the estimated \$21.0 million.

FUND BALANCE ADEQUACY/RESERVES

The severe revenue shortfalls that began in FY 2002 and continued into FY 2004 have been overtaken by a period of strong state revenues. This is apparent in the revenue projections considered by the taxation committees in HJR 2 and the sizeable ending fund balance left by the 2005 Legislature after approving significant appropriation increases. However, the legislature must still resolve the school funding lawsuit in a special session in late 2005, there is a potential for an expensive wildfire season, and the legislature did not budget for potential 2007 supplemental appropriations. The legislature needs to be aware of the tenuous nature of the surplus and keep in mind the need to maintain an adequate reserve.

Attaining general fund budget stability means more than setting appropriations equal to anticipated revenues, with a positive ending fund balance serving as a safety net. The adequacy of the state fund balance can signify the difference between whether or not the state is forced to confront the unpleasant consequences of fiscal instability.

BACKGROUND

Montanans are all too familiar with the consequences of general fund balance inadequacy. In the late 1980's and early 1990's, the state general fund experienced a deficit between revenues and disbursements. Much of the growth in the disbursement rate is a result of natural growth in expenditures due to population, inflation and/or caseload and enrollment increases, as well as supplemental spending for such contingencies as fire suppression. Revenue growth in the state has not always kept pace with expenditure growth. During the 2003 biennium, actual revenue growth was well below forecasts, primarily because of reduced income tax collection and lower interest rates, circumstances that could not be predicted when the 2003 biennium budget was being approved. The Fifty-eighth Legislature began its deliberations with a looming \$230 million deficit, but when the 2003 session ended after legislative actions including a combination of revenue enhancements and expenditure reductions, the projected 2005 biennium fund balance was \$46.2 million (1.8 percent of biennial appropriations).

Recognizing that budgetary imbalances occur, the state can either take a reactive or a proactive approach. During the 1993 and 1995 biennia, the state held three special legislative sessions to deal with budget shortfalls. Another occurred in August of 2002. Although special sessions allow lawmakers the ability to address issues relative to revenues and expenditures, special sessions can cost the taxpayers nearly \$50,000 per day. The need for special sessions is also closely scrutinized by the national agencies that rate the state's debt. Rating agencies also use a state's general fund balance as a percent of revenues as one of the key financial indicators for credit analysis.

Again from a reactive stance, budgetary fluctuation can be temporarily resolved through spending reductions. In accordance with 17-7-140, MCA, the Governor can authorize spending reductions: "...in an amount that ensures that the projected ending general fund balance for the biennium will be at least 1 percent of all general fund appropriations during the biennium." Essentially, the executive branch assumes control of the budget decision-making process by implementing and prioritizing spending reductions. Further, budgetary imbalances can be addressed only from one side of the equation – expenditures – and even then, 50 percent of the spending authority cannot be reduced by the Governor. This means that legislative priorities could potentially get lost in the process.

Because of the cost and disadvantages of taking a reactive approach to budget imbalances, a more effective method may be to approach these issues proactively through provision of adequate fund balance reserves. National fiscal experts such as the National Conference of State Legislatures (NCSL) recommend a reserve fund balance of three to five percent of total appropriations or revenues. Because Montana's budget is implemented on a biennial basis -- resulting in considerably more risk than an annual budgeting process -- the three to five percent should be applied to biennial totals. At a minimum, the budget process should include a general fund ending fund balance of 2.5 percent of total biennial appropriations or revenues. For Montana, with a total general fund budget of \$2.97 billion, this equates to a minimum \$77.0 million ending fund balance. The revenue volatility in recent years might suggest that a higher reserve would be more prudent.

The provision of an adequate general fund balance is essential to achieving a sound financial foundation. The level of fund balance reserves must be sufficient to offset the volatility of revenues and the potential for unforeseen expenditure increases, and as true in recent years, economic uncertainty is predominant. It is even more important since Montana is one of only three states that do not have a rainy day fund provision. During the 2003 legislature, five bills were introduced that included provisions for a rainy day fund. Select concepts from these bills were combined into one bill that passed out of the House but failed to advance in the Senate. In the 2005 session, three bills were introduced, but ultimately, none were adopted.

2005 LEGISLATIVE SESSION

The Fifth-ninth Legislature saw a significant turnaround in the revenue picture as it convened in January 2005 with a projected available balance of \$194.2 million for the end of the 2005 biennium. Although the executive and the legislature were compelled to address some of the areas of the budget that suffered from the recent revenue shortfall, both were committed to retaining a reasonable reserve. The budgets submitted by the outgoing Governor Martz and the newly elected Governor Schweitzer both recommended an \$80 million ending fund balance.

The legislative budget for the 2007 biennium included an ending fund balance of approximately \$76.0 million, or 2.5 percent.

FEDERAL JOBS AND GROWTH TAX RELIEF FUNDS

The federal Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRR) was enacted in late May of 2003. In addition to several tax law changes, the act included \$20 billion in state assistance, half for enhanced federal matching payments for Medicaid and half for flexible assistance to states to support essential government services and unfunded federal mandates. Montana received \$50 million in support for essential state services or unfunded federal mandates and an additional \$21 million in enhanced federal Medicaid payments in FY 2003 and FY 2004.

TEMPORARY FISCAL ASSISTANCE TO STATES FOR PROVIDING GOVERNMENT SERVICES

Montana received \$25 million in FY 2004 and an additional \$25 million in FY 2005 for general assistance, which was the minimum allocation (0.5 percent of the total federal allocation). The only criteria established for the use of the funds were that the funds must be used to:

- Provide essential government services¹; or
- Cover the costs of state compliance with any federal intergovernmental mandate², to the extent that the mandate applies to the state and the federal government has not provided funds to cover the costs.

In addition, the state could only use the funds for types of expenditures permitted under the most recently approved budget for the state, meaning that no new programs could be established with the funds.

The legislature chose to defer the decisions on use of the funds to Governor Martz through the budget amendment process, as legislative action would have required a special session. Because the state's budget amendment laws are more stringent than the federal guidelines on use of the funds, Governor Martz could only provide the funds for functions the legislature did not consider and reject, as that would have violated budget amendment laws. The funds could also not be used if that use would have resulted in an obligation of general fund.

Figure 18 shows how Governor Martz chose to allocate the funds. As shown, most of the funds were used to pay for fire suppression in FY 2004. As a result, the state general fund obligation for these costs was very low despite a severe fire season in that year. (For a further discussion, see the Department of Natural Resources and Conversation page C-97 in Volume 4.)

¹ "Essential government services" was not defined in the act.

² The act used the definition of federal intergovernmental mandate used in the Congressional Budget Act of 1974, as amended by the Unfunded Mandates Reform Act of 1995 (P.L. 104-4).

Figure 18
Allocations by Governor Martz
Federal Relief Funds
2005 Biennium

Function	Fiscal 2004	Fiscal 2005	Biennium
Authorization			
Defense in Bankruptcy Hearings*			
Public Service Commission**	\$354,685	\$0	\$354,685
Department of Justice**	<u>712,385</u>	<u>0</u>	<u>712,385</u>
Subtotal Bankruptcy Hearings	\$1,067,070	\$0	\$1,067,070
Governor's Office			
Extradition of Prisoners	\$0	\$40,000	\$40,000
Governor's Office Enhancement	\$0	50,000	50,000
Replace Federal Funding for Ombudsman	\$0	60,000	60,000
Made in Montana	<u>0</u>	<u>25,000</u>	<u>25,000</u>
Subtotal Governor's Office	\$0	\$175,000	\$175,000
Department of Livestock			
Meat Inspector	0	23,031	23,031
Department of Natural Resources and Conservation			
Water Rights Data Base	\$0	\$100,000	\$100,000
Fire Costs***	34,827,143	2,252,938	37,080,081
Helicopter	<u>150,000</u>	<u>0</u>	<u>150,000</u>
Subtotal DNRC	\$34,977,143	\$2,352,938	\$37,330,081
Department of Military Affairs			
Winter Storm Emergency	249,682	0	249,682
Department of Corrections			
Populations/Overtime	0	1,041,969	1,041,969
Health and Human Services			
Meals on Wheels	\$257,000	\$257,000	\$514,000
Low Income Energy Assistance*	2,000,000	0	2,000,000
Reduce Vacancy Savings at Institutions	<u>750,000</u>	<u>750,000</u>	<u>1,500,000</u>
Subtotal Human Services	\$3,007,000	\$1,007,000	\$4,014,000
K-12 Education*			
Technology Fund	\$1,750,000	\$0	\$1,750,000
Reading in the Early School Years Grants	450,000	0	450,000
Vocational Education	250,000	0	250,000
OPI - Technical assistance for No Child Left Behind	50,000	0	50,000
OPI - Curriculum Development for Indian Cultural Heritage	50,000	0	50,000
Renewal Commission	25,000	0	25,000
Reduce Vacancy Savings for Montana School for the Deaf and Blind	<u>125,000</u>	<u>116,046</u>	<u>241,046</u>
Subtotal K-12 Education	\$2,700,000	\$116,046	\$2,816,046
Capital Projects*			
Room Renovation	0	133,121	133,121
Repair Capitol steps	<u>450,000</u>	<u>0</u>	<u>450,000</u>
Subtotal Capital Projects	450,000	133,121	583,121
Montana University System*			
General with Distribution Reporting Requirement	\$2,000,000	\$0	\$2,000,000
Community Colleges	450,000	0	450,000
Distance Learning	<u>250,000</u>	<u>0</u>	<u>250,000</u>
Subtotal Higher Education	\$2,700,000	\$0	\$2,700,000
Total Federal Funds	<u>\$45,150,895</u>	<u>\$4,849,105</u>	<u>\$50,000,000</u>

*Biennial appropriation.

**All expenditures have been reimbursed by Northwestern Energy.

***Includes estimate of Spring 2005 fire costs and the net of a payback of \$222,890 in the Department of Military Affairs.

Impact on 2007 Biennium Budget

The allocations of the funds in the 2005 biennium and the legislative action can fall into five categories: 1) allocations for current programs the legislature chose to continue; 2) allocations for current programs the legislature did not continue; 3) allocations to begin or offset general fund for initiatives that the legislature then continued; 4) one-time offsets of on-going general fund costs that will now revert back to general fund; and 5) one-time projects not continued by the legislature. The following list

summarizes each within those five categories, and briefly discusses legislative action in the 2007 biennium.

Allocations for Current Programs the Legislature Chose to Continue

- Mental health ombudsman (A-60, Volume 3) – The legislature chose to continue the mental health ombudsman position at full funding despite the loss of federal Medicaid funds used for this purpose by adding \$95,000 general fund each year
- Made in Montana Program enhancement (C-145, Volume 4) - \$800,000 general fund was added in addition to the base amount
- Low Income Energy Assistance enhancement (B-23, Volume 3) – Traditionally, the legislature has appropriated only the anticipated federal grant. The enhancement of funding was continued in the 2007 biennium with the appropriation of \$1.0 million general fund
- Meals on Wheels (B-147, Volume 3) – Funding for Meals on Wheels was among the programs identified for reduction to meet the general fund appropriation in the 2005 biennium until replacement with the temporary federal funds. The legislature funded the program at \$567,000 each year, adding \$340,000 general fund annually
- Elimination of some vacancy savings in MSDB (E-34 and E-36, Volume 4) – No vacancy savings was taken on the Education or Student Services Programs at MSDB
- Enhanced vocational education funding (E-14, Volume 4) – In addition to present law adjustments, general fund of \$285,000 per year was added (these amounts are designated for vocational education or career and technical education)
- Enhanced community colleges funding (E-92, Volume 4) – The legislature made a \$900,000 lump sum appropriation in addition to the formula amounts

Allocations for Current Programs the Legislature Did Not Continue

- Governor's Office enhancements – The legislature made several adjustments to the Governor's Office budget. However, because no specific purpose was identified for the use of the federal funds, it cannot be said that those specific uses were continued
- Vacancy savings at institutions – The executive recommended and the legislature funded the institutions with a 4 percent vacancy savings rate applied
- Enhanced higher education – The funds provided by Governor Martz were for "grants and student tuition relief". While it cannot be stated that the specific use was continued, the executive recommended and the legislature funded certain additional costs at a higher general fund to tuition ratio than previously utilized. The legislature also provided an additional \$470,000 for need-based student grants in the Montana Higher Education Grant Program (MHEG) to continue supporting student assistance grants at a higher rate

Allocations to Begin Initiatives That Were Then Continued

- Meat inspector (C-89, Volume 4) – The legislature continued the match for an additional meat inspector with general fund that was matched with the federal funds in FY 2005
- Water rights database (C-114, Volume 4) – The legislature appropriated \$400,000 general fund to continue work on the database
- DNRC helicopter (C-121, Volume 4) – DNRC received \$200,000 general fund to build an additional helicopter
- Distance learning (E-65, Volume 4) – The legislature provided an additional \$300,000 general fund to continue the distance learning initiative

- Indian Education for All (E-1, Volume 4) – A total of \$3.4 million general fund was appropriated to continue various Education for All initiatives in the Office of Public Instruction and higher education, including curriculum development

One-Time Offsets of On-Going General Fund Costs

Governor Martz used most of the funds available from the federal government to offset on-going general fund costs.

- State responsibility fire costs (C-97, Volume 4) – Any costs of fires for which the state is responsible will be funded with general fund in the 2007 biennium
- Extradition of prisoners costs (A-44, Volume 3) – The federal funds were used in FY 2005 for increases over the appropriated amount. The legislature provided an additional \$40,800 each year over the FY 2004 base expenditures
- Corrections operations costs (D-52, Volume 4) – The federal funds were used to reduce the anticipated supplemental appropriation request for the Department of Corrections due to increased populations and overtime costs. The 2005 Legislature funded all anticipated populations increases in the 2007 biennium, but did not fully fund all anticipated overtime costs

One-Time Projects/Uses

- Costs of Northwestern bankruptcy (PSC/Justice)
- Winter storm emergency
- Technology funds
- Technical assistance for No Child Left Behind
- Early reading
- Renewal commission
- Capitol projects (stairs and room renovation)

MEDICAID PROVISIONS

The act provided increased federal matching rates for most Medicaid services from the period of April 1, 2003 through June 30, 2004. In general, states received a 2.95 percent increase in the federal share of Medicaid services costs. As a result, the general fund appropriations for Medicaid were higher than necessary, and the department reverted about \$4 million in FY 2003 and about \$14.4 million in FY 2004 to the general fund. In addition, \$2.9 million general fund that would have reverted was used for three purposes within the Department of Public Health and Human Services:

- Expansion of Children's Health Insurance Program (CHIP) enrollment at 10,900 - \$0.6 million
- On-going shortfalls in the Child Support Enforcement Division (CSED) - \$1.0 million
- Payment of all TANF maintenance of effort on a state fiscal year, as well as federal fiscal year basis - \$1.3 million

Impact on 2007 Biennium Budget

The legislature replaced all additional federal participation with general fund, maintaining services to those who had been eligible in the base year. LFD staff estimates that the legislature added \$29 million general fund in the 2007 biennium to replace the expired additional federal matching rate. When coupled with the reduction in the federal matching rate due to an improvement in Montana's relative economic standing compared to other states, the general fund cost of maintenance of Medicaid (including CHIP) increased by \$54 million in the 2007 biennium. In addition, the legislature provided additional funding to maintain CSED operations, and expanded CHIP enrollment to 13,900 (this expansion was funded with a combination of general fund and I-149 state special revenue funds).

INFORMATION TECHNOLOGY MAJOR PROJECTS

The 2005 Legislature funded several major information technology projects, which are summarized below.

IRIS

The 2003 Legislature, through SB 271, directed and authorized funding to begin replacing the Process Oriented Integrated Tax System (POINTS). The system replacement project, known as the Integrated Revenue Information System (IRIS), uses a commercial off-the-shelf computer system to provide the revenue administration, storage, and reporting capacities to administer state tax revenues. With funding from the 2003 Legislature, the project administered by the Department of Revenue, in cooperation with the office of chief information officer, developed IRIS systems to administer the following taxes:

- Rental vehicle
- Lodging facilities use
- Cigarette
- Withholdings
- Combined oil and gas
- Corporate license
- Individual income

Funding for the 2005 biennium system development work was through authority to acquire and expend loan proceeds. Concerns were raised as to the constitutionality of the mechanism used to authorize the issuance of state debt to fund the project. Because of these concerns, the 2005 Legislature appropriated funds to retire the debt and to complete the project in the 2007 biennium. Figure 19 identifies the funding for IRIS authorized by the 2005 Legislature. Funding for the 2007 biennium will develop IRIS modules for the remainder of the tax types not converted to IRIS in the 2005 biennium and phase-out POINTS.

Figure 19				
IRIS Project Funding Provided by 2005 Legislature				
(\$ Millions)				
Use	Department Receiving Appropriation	Biennium	Bill	General Fund
Pay off IRIS loan and finish contractor payments	Department of Revenue	2005	HB 745	\$13.9
Finish contractor payments on IRIS phase one	Department of Administration	2005	HB 745	2.1
Replace the remainder of POINTS and shutdown POINTS	Department of Revenue	2007	HB 2	4.0
POINTS data transition, cleanup, and conversion	Department of Revenue	2007	HB 2	1.4
Total Funding				<u>\$21.4</u>

PROPERTY TAX SYSTEM

When the 1997 Legislature passed HB 188 that authorized issuance of general obligation bonds for information technology projects, one of which was for the integrated revenue and tax system of the Department of Revenue, it anticipated replacing the property tax system used by the department. Replacement of the property tax system was a part of the POINTS project until project issues led to a decision by the executive to abandon replacing the property tax system as a part of the project. The 2005 Legislature funded a project to replace the existing, obsolete property tax system that is no longer supported by the vendor, with a new commercial off-the-shelf system. The legislature appropriated

one-time funding of \$5.5 million general fund to develop and implement a new system that will interface with IRIS, but not be a component part of IRIS, for completion in the 2007 biennium.

INTEGRATED FINANCIALS PROJECT

The Department of Transportation operates a number of computer systems to plan, schedule, and administer department functions, projects, finances, and resources. The legislature funded a long-term project to integrate department management systems so the various management systems will interface with each other and the Statewide Accounting, Budgeting, and Human Resources System (SABHRS), instead of continuing to operate independently. The project will also move financial systems from the mainframe environment to the Oracle environment. In funding the project, the legislature appropriated \$448,000 state special revenue to add 6.00 FTE computer programmers to integrate the systems over multiple biennia. The project is expected to last through the 2011 biennium and cost \$10 million in aggregate when completed. However, costs and schedules are heavily reliant upon future upgrades to SABHRS.

JUDICIARY INFORMATION TECHNOLOGY - CASE MANAGEMENT SYSTEM

The legislature approved \$1.1 million in general fund to purchase case management systems and related technology for district courts and courts of limited jurisdiction. This appropriation was \$0.2 million less than the amount requested by the Judiciary. The Judiciary plans to delay the deployment of a jury management system to adhere to the limitation in funding.

Montana's courts and judicial offices use varying levels of information technology to meet their case management needs. The Supreme Court, the Water Court, and Montana's youth courts do not have automated case management systems. The district courts use a case management system that was developed and deployed by in-house technical staff from the Office of the Supreme Court Administrator (OCA) during the early 1990's. Approximately one-half of the courts of limited jurisdiction use a case management system called FullCourt, which began being installed in 2001. The remaining courts of limited jurisdiction use an older case management system provided by local government or by the OCA. The OCA is responsible for the installation and ongoing administration of the case management systems that are used by the courts of limited jurisdiction. As a result of the approval of this funding, the Judiciary committed to complete the purchase and installation of FullCourt in all district courts and the remaining courts of limited jurisdiction during the 2007 biennium.

The legislature asked the Judiciary to correct two major problems with the Judiciary's current information technology plan. First, courts do not use similar systems, and second, the systems that are used are not administered from a central database. The Judiciary stated that all district courts and courts of limited jurisdiction would have the use of FullCourt by the end of the 2007 biennium. The Judiciary also stated that these systems would be managed by a central database that is currently being deployed using a federal grant. These systems will be able to communicate with each other or with other court levels. The Judiciary will move from operating and maintaining 238 independent systems to one integrated centrally managed system. This system will allow for the timely extraction and reporting of caseload data on a consolidated basis. This system will also allow for upgrades from a centralized site.

ECONOMIC DEVELOPMENT

This section discusses major legislation that address economic development in Montana. Please note that it does not discuss any current programs, including statutory or ongoing agency programs.

The Schweitzer administration advocated economic and community development as a major priority of the 2005 legislative session. The 2005 Legislature passed legislation or made appropriations that will have an impact upon economic and community development efforts in three distinct categories: 1) direct investment; 2) tax related initiatives; and 3) "other." The direct investment category includes legislation that provides an appropriation for economic and community development related activities. The tax related initiatives category includes legislation enacted to stimulate business retention, expansion, or research through tax incentives. The "other" category includes all other legislation, some of which may be associated with bonding activity, other types of financing, or regulatory changes associated with removing or reducing impediments to economic and community development. Figure 20 below shows the majority of legislation passed by the 2005 legislature for economic development.

Figure 20 Legislation on Economic Development 2007 Biennium				
Description	Legislation	Source*	Auth. Source	
Direct Investments				
Big Sky Economic Development Program	HB 249	GF	HB 249	\$2,900,000
Worker Training Program*	HB 270	GF	HB 2	2,800,000
L&C bicentennial license plates	HB 301	SSR	HB 301	75,147
Great Plains Dinosaur Park	HB 423	GF	HB 423	500,000
Main Street Program	HB 481	SSR	HB 2	250,000
Incr. grants from coal tax shared account	HB 482	SSR	HB 2	389,606
Military installations in Montana	HB 713	GF	HB 713	100,000
Made in Montana Program	SB 329	GF	HB 2	<u>800,000</u>
Total Direct Investments				\$7,814,753
Tax Initiatives				
Big Sky on Big Screen Act	HB 584	GF	HB 584	841,320
Montana equity capital investment act	SB 133		SB 133	<u>24,000,000</u>
Total Tax Initiatives				\$24,841,320
Other				
Freight Rail Act	HB 757	SSR	HB 757	3,444,000
Oil, gas, and coal resource account	HB 758	SSR	HB 758	<u>0</u>
Total Other				<u>\$3,444,000</u>
Total appropriations for economic development				<u>\$36,100,073</u>
*The legislature appropriated \$2.17 million for the worker training program in HB 271 for FY 2005.				
*Source of funds; GF-general fund, SSR-state special revenue				

LEGISLATION ENACTED

The following discusses each of the individual legislative actions listed in the figure in more detail.

Direct Investments

HB 249 establishes the big sky economic development fund, a sub fund within the permanent coal severance tax trust, with an initial infusion of \$20 million. Through June 30, 2025, 25 percent of the coal severance tax revenues to the permanent coal severance tax trust not required for other purposes will be deposited in the big sky economic development fund.

Interest generated from the fund will be transferred monthly to a state special revenue account that is statutorily appropriated to the Department of Commerce. After the cost of administration, 75 percent of the remainder must be used for grants and loans to local governments for job creation projects, while 25 percent will support the certified regional development corporations for economic development activities. The big sky economic development fund is anticipated to generate \$1.3 million in FY 2006 and \$1.6 million in FY 2007. The fund will increase to \$25.5 million at the end of the 2007 biennium and will continue to increase as the sub fund grows and general fund will be reduced by a like amount.

HB 270 transferred the New Worker Training Program from the Governor's Office of Economic Opportunity to the Department of Commerce and revised the program funding mechanism. This program funds businesses that create jobs meeting a minimum salary threshold and having at least 50 percent of their sales outside of Montana. Each grant is not to exceed \$5,000 for each full-time employee that is being trained. The legislature approved the transfer of 2.00 FTE and appropriated \$2.8 million of one-time-only general fund in HB 2 for the New Worker Training Program.

The program was approved by the 2003 Legislature and funded with the INTERCAP loan program through the Board of Investments in the Department of Commerce. Legislative auditors questioned the use of the loan program and the state's bond counsel agreed, by stating "no state debt shall be created unless authorized by a two-thirds vote of the members of each house of the legislature." The Worker Training program was held in abeyance until July 1, 2005 when the new funding switch will take place.

HB 271, a companion bill to HB 270, provided for a FY 2005 supplemental appropriation of \$2.17 million general fund for the New Worker Training Program.

HB 301 continues the sale of Lewis and Clark bicentennial specialty license plates and provides that this revenue be allocated to the Department of Commerce and Montana Historical Society, the successors to the Lewis and Clark Bicentennial Commission. Beginning January 1, 2007, the agencies will use the money deposited in the special revenue accounts to support projects related to Lewis and Clark activities. The license plate revenue is statutorily appropriated 75 percent to the Department of Commerce and 25 percent to the Montana Historical Society.

HB 423 provides for a \$500,000 biennial general fund appropriation to establish a Great Plains Dinosaur Park in Malta, MT.

HB 481 establishes a Main Street program in the Department of Commerce to be developed in conjunction with the National Trust for Historic Preservation. The purpose of the program is to assist communities in restoring and retaining the historic character of their downtown areas and historic commercial districts. The legislature appropriated \$250,000 of one-time-only state special revenue over the biennium from the highways non-restricted account.

HB 482 increases the amount of coal severance tax revenues flowing into the coal tax shared account from 7.75 percent to 8.36 percent. Impacted entities include the Coal Board in the Department of Commerce, Conservation Districts in the Department of Natural Resources and Conservation, Growth Through Agriculture in the Department of Agriculture, and the State Library. The legislature appropriated increases in state special revenue by \$389,606 to implement the provisions in HB 482.

HB 713 appropriated \$100,000 in general fund to create a task force to conduct a mission assessment for military and National Guard installations in Montana and to promote the establishment of new

installations and expanded missions in the state. Any funds not expended specifically for the purposes of this bill will revert to the general fund. This bill will seek to enhance the importance of military installations to the Montana economy.

SB 329 clarifies the state's role in the Made in Montana program in the Department of Commerce by allowing the Department to provide training and assistance to Montana small businesses and entrepreneurs to expand markets for Made in Montana products. The legislature added 1.00 FTE and \$600,000 general fund over the 2007 biennium in HB 2 for the Made in Montana Program. An additional \$200,000 general fund was also approved by the legislature in HB 2 as one-time-only funding on a restricted basis.

Tax Initiatives

HB 584 establishes the Big Sky on the Big Screen Act. HB 584 requires production companies to apply to the Department of Commerce for state certification of a production in order to qualify for the tax credits enumerated in the bill. The application fees established in the bill are deposited in a state special revenue account and statutorily appropriated in an equal amount to the Department of Commerce and the Department of Revenue. It is anticipated that eligible qualified employment and production expenditures tax credits will be \$841,320 over the 2007 biennium. Being these are tax credits, this amount will be a direct reduction in general fund revenue over the biennium.

SB 133 establishes the Montana Equity Capital Investment Act to provide investment incentives to nourish creation of a private seed and venture capital industry to fund academic, technological, and innovative companies by creating a Montana Equity Fund and Montana Equity Capital Investment Board. The bill also authorizes the issuance of tax credits to investors in the Montana Equity Fund and requires the board to charge an annual fee to the designated investor group for administration of the Act. The board, which consists of five voting members, is administratively attached to the Department of Commerce.

Other

HB 757 established the Montana Essential Freight Rail Act, providing federal funding for a revolving loan account administered by the Department of Transportation. The Board of Investments in the Department of Commerce may issue and sell essential freight rail revenue bonds to finance the costs of the projects contemplated in the bill and to service bond debt.

HB 758 creates a new oil, gas, and coal natural resource state special revenue account, which dedicates revenue to the Department of Commerce and the Department of Revenue. Revenues for the new account come from the coal severance tax and the oil and gas production tax.

As stated on the previous page, HB 482 allocates 8.36 percent of the coal severance tax revenues to the coal tax shared account for four entities. HB 758 would reduce this amount to 5.46 percent, and the difference of 2.90 percent would go to the new account and be administered by the Coal Board in the Department of Commerce. The Coal Board would no longer be a participant in the coal tax shared account. The Department of Revenue administers the oil and gas portions of the bill. There is no fiscal impact beyond what was addressed in HB 482.

PENSION FUNDS – UNFUNDED LIABILITIES

The Montana Constitution requires that the public retirement systems be funded on an actuarially sound basis. A significant decline in the market value of public retirement plan investments from FY 2000 through FY 2003 has resulted in significant actuarial losses to the retirement plans. Actuarial valuations for the Public Employees' Retirement System (PERS), Game Wardens' and Peace Officers' Retirement System (GWORS), Sheriffs' Retirement System (SRS), and the Teachers' Retirement System (TRS) as of July 1, 2004, have determined that expected contributions will not be sufficient to pay the normal costs and amortize the unfunded actuarial liabilities within the statutorily required 30 years.

The legislature considered, but deferred taking action, at the request of the Governor, on legislation that would have raised the employer contribution rates for these retirement systems. The Governor's office indicated they anticipated addressing this issue prior to the next regular session of the legislature, possibly in conjunction with the anticipated December 2005 Special Session. The legislature passed HJR 42 requesting a legislative study on how public employee retirement funds are invested and how investment performance, retirement plan benefits, and legislative policy decisions interact to affect the actuarial soundness of the public employee retirement plans and employers' funding obligations. Legislators made the study the top priority.

The courts have determined that retirement benefits are contractual obligations of the government entity to the current employees and retirees. For this reason, retirement benefits cannot be reduced to address the funding deficiencies. As such, legislation before the 2005 Legislature focused primarily on increasing the employer contributions for the affected pension systems. The fiscal impacts that would have resulted from passage of the proposed bills are shown in Figure 21. The figure shows that the total fund impact to address only the change in employer contribution rates in the 2007 biennium would have been \$30.0 million. Since the rate increases were phased in over a number of biennia, the 2009 biennium impact was projected to be nearly double the 2007 biennium amount. In the 2011 biennium, TRS employers would have experienced a third rate increase for a \$43 million projected impact.

When the legislature addresses the pension funding issue, the actuarial funding of the systems could degrade further if investment returns are less than assumed returns, or could improve if returns are higher than anticipated. In either case, the legislature will likely be faced with addressing recommendations to change employer contribution rates or change the policies for managing pension assets.

Figure 21
Fiscal Impacts of Pension Fund Legislation
2005 Legislature

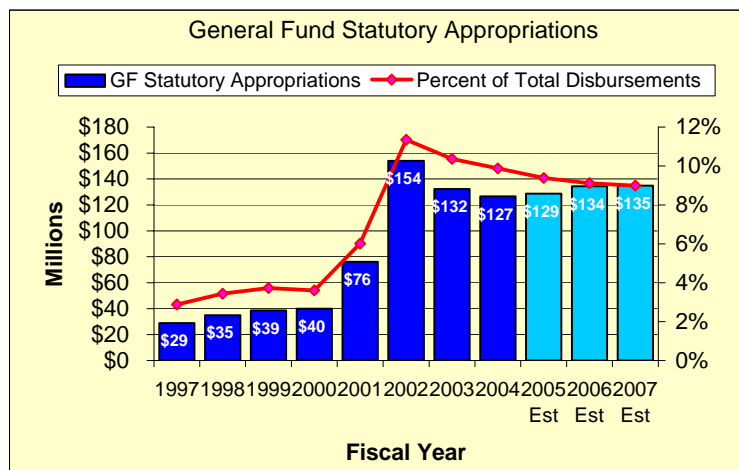
	<u>Biennium</u>		
	2007	2009	2011
PERS			
State			
General fund	\$177,100	\$354,200	\$0
Other	<u>5,047,900</u>	<u>10,095,800</u>	<u>0</u>
State Total	\$5,225,000	\$10,450,000	\$0
University System	1,222,000	2,444,000	0
K-12 Schools	1,604,000	3,208,000	0
Local Government	<u>4,245,000</u>	<u>8,490,000</u>	<u>0</u>
PERS Total	\$12,296,000	\$24,592,000	\$0
SRS			
State			
General fund	\$16,000	\$32,000	\$0
Other	<u>20,000</u>	<u>40,000</u>	<u>0</u>
State Total	\$36,000	\$72,000	\$0
Local Government	<u>705,000</u>	<u>1,410,000</u>	<u>0</u>
SRS Total	\$741,000	\$1,482,000	\$0
GWORS			
State			
General fund	\$68,000	\$136,000	\$0
Other	<u>30,000</u>	<u>60,000</u>	<u>0</u>
State Total	\$98,000	\$196,000	\$0
University System	<u>4,000</u>	<u>8,000</u>	<u>0</u>
GWORS Total	\$102,000	\$204,000	\$0
TRS			
State			
General fund	\$76,000	\$152,000	\$197,600
Other	<u>36,000</u>	<u>72,000</u>	<u>93,600</u>
State Total	\$112,000	\$224,000	\$291,200
University System	2,538,000	5,076,000	6,598,800
K-12 Schools	<u>13,810,000</u>	<u>27,620,000</u>	<u>35,906,000</u>
TRS Total	\$16,460,000	\$32,920,000	\$42,796,000
Total for All Pension Funds			
State			
General fund	\$337,100	\$674,200	\$197,600
Other	<u>5,133,900</u>	<u>10,267,800</u>	<u>93,600</u>
State Total	\$5,471,000	\$10,942,000	\$291,200
University System	3,764,000	7,528,000	6,598,800
K-12 Schools	15,414,000	30,828,000	35,906,000
Local Government	<u>4,950,000</u>	<u>9,900,000</u>	<u>0</u>
All Pensions Total	<u>\$29,599,000</u>	<u>\$59,198,000</u>	<u>\$42,796,000</u>

GENERAL FUND/STATE SPECIAL STATUTORY APPROPRIATIONS

GENERAL FUND

Statutory appropriations are a special kind of legislative appropriation. Unlike temporary appropriations that expire in two years (such as those in the general appropriations act), statutory appropriations are, as their name suggests, in statute and are not part of the biennial budgeting process. As such, they are not automatically reviewed by the legislature and are not subject to the biennial priority setting process like temporary appropriations (such as those in HB 2). Since the appropriations are in statute, they remain in place until removed or changed by legislation. The legislature has made various attempts to not lose sight of these appropriations. In 1985, Representative Bardanoue sponsored legislation that required all valid statutory appropriations to be contained in a list in 17-7-502, MCA. That list provides statutory citations for each statutory appropriation. Although there are currently 73 sections listed (prior to the 2005 session), some sections have multiple statutory appropriations and each appropriation listed in statute could have multiple appropriations established on the state accounting system. Of these, 16 sections statutorily appropriate general fund. In 1993, Senator Grosfield successfully sponsored legislation (SB 378) that required a review of all statutory appropriations every two years by the Legislative Finance Committee. This requirement was removed by the 2001 legislature. Statutory appropriations are intended for only limited situations, and guidelines for the appropriateness for establishing them are specified in 17-1-508, MCA.

Figure 22



The significance of statutory appropriations lies not in the number of them, but rather in the amount of money authorized to be spent and if the authorizations still reflect the priorities of the current legislature. All statutory appropriations are available for the legislature to review, prioritize, and change if desired. Figure 22 on the left illustrates the amount of general fund spent through statutory appropriations from FY 1997 through FY 2004 and estimated amounts from FY 2005 to FY 2007. From FY 1997 to FY 2004, general fund expenditures from statutory appropriations increased \$98 million and,

in FY 2004, comprised 10 percent of all general fund expenditures. For the 2007 biennium, \$269 million general fund is expected to be spent with statutory appropriations. The initiation of the county entitlement program in FY 2002 (enacted by HB 124 in the 2001 session) accounts for most of the large increase shown in FY 2002. The increase in FY 2001 is largely due to payment of wildfire costs from the summer of 2000.

The 2005 legislature enacted seven laws that increase general fund spending from statutory appropriations by \$1 million over the 2007 biennium. These laws affect general fund statutory appropriations by: 1) creating new statutory appropriations; 2) eliminating statutory appropriations; or 3) changing amounts appropriated by existing statutory appropriations:

- SB 146 established a statewide public defender system. To compensate the state for the additional costs of assuming local government's share of the system, statutorily appropriated payments in the county entitlement program are reduced \$2,559,141 beginning FY 2007.
- HB 756 encourages the production of biodiesel by providing a tax incentive (on the special fuel license tax paid by a licensed distributor) payable to producers for increases in annual production for the first three years of production. The incentive is 10 cents per gallon for all biodiesel produced the first year and 10 cents per gallon for increases in the second and third years. Incentives are available only on production for which the fuel tax has been paid and are paid on a fiscal year basis to biodiesel producers. The tax incentive ends July 1, 2010. The payments are statutorily paid from the general fund by the Department of Transportation. The first payment of \$240,000 is expected in FY 2008.
- HB 776 provides refunds for taxes paid on biodiesel by distributors or retailers. The refund is 2 cents per gallon for distributors and 1 cent per gallon for retailers and applies to fuel distributed or purchased after June 30, 2005. Anticipated tax refunds of \$48,000 beginning FY 2007 are statutorily paid by the Department of Transportation from the general fund. The statutory appropriation becomes effective when: 1) an ethanol plant is certified as being operational and producing fuel in Montana; and 2) the net working capital in the restricted highway account is at least \$20 million (excluding bond proceeds) on June 20 following the date on which the previous condition was met.
- HB 169 revises laws relating to the enforcement of the tobacco settlement agreement. It eliminates a narrowly based general fund statutory appropriation to spend money recovered for investigation expenses, attorney fees, and other costs, and creates a new statutory appropriation that covers the same money, but with a broader coverage of applicable statute. No expenditures were anticipated from the eliminated statutory appropriation, but \$30,000 general fund is expected to be spent with the new statutory appropriation.
- HB 540 authorizes \$67.5 million in additional general obligation bonds. The general fund debt service payments of \$625,857 beginning FY 2007 are paid with the existing statutory appropriation for debt service.
- SB 370 allows detention officers who are members of the public employees' retirement system to become members of the sheriffs' retirement system before May 1, 2006. It is expected that all detention officers will switch. Since the state makes general fund contribution to the public employees' retirement system with a statutory appropriation (no payments are made to the sheriffs' retirement system), general fund appropriations are reduced by an estimated \$12,216 in FY 2006 and \$12,735 in FY 2007.
- HB 102 eliminates the need for two HB 2 language appropriations and three HB 2 appropriations to transfer money to the highway patrol retirement fund and replaces them with two general fund statutory appropriations of \$350,000 and \$890,000 each year.

Figure 23 shows each individual general fund statutory appropriation, including existing ones modified and new ones enacted by the 2005 legislature for FY 2005-2007. The largest statutory appropriation of general fund occurs under 15-1-121, MCA. For the 2007 biennium, \$170 million (including adjustments made in the 2005 session) is expected to be spent for entitlement payments to counties and tax increment financing districts. Other large statutory appropriations of general fund in the 2007 biennium include:

- \$35.8 million of transfers to retirement funds (Title 19, MCA)
- \$37.5 million to service the debt on bonding issues approved by past legislatures and the 2005 legislature (17-7-502, MCA)

- \$12.1 million of coal trust interest (that is deposited to the general fund) to fund economic development programs (15-35-108, MCA)

Figure 23

General Fund Statutory Appropriation Estimates
Fiscal Years 2005-2007
(in millions)

MCA Cite	Bill/Purpose	Fiscal 2005	2007 Biennium		
			Fiscal 2006	Fiscal 2007	Total
<u>Retirement</u>					
19-9-702	Ins Prem Tax-Fire/Polc Ret 19-9-702-SA	\$7.591	\$7.995	\$8.419	\$16.414
19-13-604	Prem Tax-Fire/Pol 19-13-604-SA	6.857	7.198	7.556	14.754
19-17-301	Prem Tax-Fire/Pol 19-17-301-SA	1.563	1.704	1.857	3.561
19-18-512(1)	Prem Tax-Fire/Pol 19-18-512-SA	0.245	0.250	0.265	0.515
19-19-305(1)	Prem Tax-Fire/Pol 19-19-305-SA	0.250	0.250	0.250	0.500
19-19-506(4)	Prem Tax-Fire/Pol 19-19-506-SA	<u>0.021</u>	<u>0.021</u>	<u>0.021</u>	<u>0.041</u>
Sub-total		\$16.527	\$17.417	\$18.368	\$35.784
<u>Economic Development</u>					
15-35-108(7)(b)(i)	Coop Developmental Center NMC	\$0.065	\$0.065	\$0.065	\$0.130
15-35-108(7)(b)(ii)	Add Vision 2005-SA	1.250	1.250	1.250	2.500
15-35-108(7)(b)(iii)	Research & Commercialization	0.000	3.650	3.650	7.300
15-35-108(7)(b)(iii&iv)	Economic Development	1.100	1.100	1.100	2.200
15-35-108(7)(b)(iv)	Reimbursement of TIFF-SA	<u>0.600</u>	<u>0.000</u>	<u>0.000</u>	<u>0.000</u>
Sub-total		\$3.015	\$6.065	\$6.065	\$12.130
<u>Other</u>					
10-3-312(1)	Emergency Appropriations	\$0.020	\$0.000	\$0.000	\$0.000
15-1-111(6)	Local Asst-Prop Red PA-SA	4.865	3.613	2.408	6.021
15-1-121(3)	HB124 Combined Distribution - SA	81.331	83.711	86.292	170.003
15-1-121(6)	HB124 TIFF Distribution - SA	3.608	1.475	1.475	2.950
17-3-106(2)	Cash Management Interest-SA	0.009	0.009	0.009	0.019
17-6-101(6)	Banking Charges-SA	1.241	1.266	1.293	2.559
17-7-502(4)	TRANS Debt Service and Issuance Costs	0.000	0.000	0.000	0.000
17-7-502(4)	Transfer to Debt Service A/B Bond-SA	16.941	18.395	18.524	36.918
19-20-604	Teachers GABA 19-20-604-SA	0.685	0.699	0.720	1.419
19-3-319	Local Government PERD 19-3-319 -SA	<u>0.418</u>	<u>0.435</u>	<u>0.452</u>	<u>0.887</u>
Sub-total		\$109.118	\$109.604	\$111.173	\$220.777
<u>New - 2005 Legislature</u>					
15-1-121(3)	SB 146-Change in HB124 combined distribution	\$0.000	\$0.000	(\$2.559)	(\$2.559)
15-32-xxx	HB 756-Biodiesel tax incentives (begins FY2008)	0.000	0.000	0.000	0.000
15-70-3xx	HB 776-Biodiesel tax refunds	0.000	0.000	0.048	0.048
16-11-405	HB 169-Eliminated GF (none estimated)	0.000	0.000	0.000	0.000
16-11-509	HB 169-Fines & cost recovery on tobacco settle.	0.000	0.030	0.030	0.060
17-7-502(4)	HB 540-Additional MUS and state bonding	0.000	0.000	0.626	0.626
19-3-319	SB 370-Change in PERD local retirement	0.000	(0.012)	(0.013)	(0.025)
19-6-4xx	HB 102-Supplemental benefits for highway patrol	0.000	0.350	0.350	0.700
19-6-404(2)	HB 102-To highway patrol retirement fund	<u>0.000</u>	<u>0.890</u>	<u>0.890</u>	<u>1.780</u>
Sub-total		\$0.000	\$1.258	(\$0.628)	\$0.630
Total		\$128.660	\$134.343	\$134.978	\$269.321

STATE SPECIAL

It is estimated that \$338 million of state special revenue will be spent through statutory appropriations in the 2007 biennium. The 2005 legislature enacted 20 laws that increase the amount appropriated by \$34 million. These laws affect the appropriations by: 1) changing or eliminating existing statutory appropriations or changing the amount of revenue deposited in accounts that are statutorily appropriated - \$14 million; or 2) enacting new statutory appropriations - \$20 million. Figure 24 shows amounts estimated from existing statutory appropriations and from new ones enacted by the 2005 legislature.

Figure 24

Existing & New State Special Statutory Appropriations

Fiscal Years 2005-2007

(in millions)

MCA Cite		Bill/Purpose	Fiscal 2005	2007 Biennium		
				Fiscal 2006	Fiscal 2007	Total
<u>Existing Statutory Appropriations</u>						
Multiple	Varied dedicated uses		\$146.757	\$151.805	\$151.976	\$303.781
<u>Changes to Existing SA - 2005 Legislature</u>						
20-9-622(1)(b)	HB 2-Guarantee account for schools districts			(\$0.005)	\$0.005	\$0.000
75-1-1101(3)	HB 7-Environmental contingency account			0.057	0.000	0.057
23-5-631(5)	HB 204-Eliminate SA for gambling inspection fees			(0.057)	(0.056)	(0.113)
17-7-502(4)	HB 299-Debt service for DOT building bonds			0.000	0.099	0.099
2-15-151	HB 301-Eliminate SA of L&C license plate fees			0.000	0.000	0.000
20-9-622(1)(b)	HB 447-Guarantee account for schools districts			(0.129)	(0.337)	(0.466)
15-36-332(8)	HB 535-O&G revenue to counties & cities			(0.412)	(0.336)	(0.748)
15-36-332(8)	HJ 2-Increased O&G revenue to counties & cities			3.512	7.105	10.617
15-36-332(8)	HJ 2-Increased O&G revenue to guarantee account			0.477	1.003	1.480
15-37-117(3)	HB 700-Metalliferous mines tax to counties			0.092	0.095	0.187
17-7-502(4)	HB 748-Debt service for DNRC water systems			0.000	0.380	0.380
15-36-332(8)	HB 758-O&G revenue to counties & cities			<u>1.262</u>	<u>1.399</u>	<u>2.661</u>
Sub-total				\$4.797	\$9.358	\$14.155
<u>New Statutory Appropriations - 2005 Legislature</u>						
5-11-4xx	HB 28-Legislative branch reserve account			\$0.564	\$0.000	\$0.564
44-1-5xx	HB 35-Highway patrol salary increases			3.314	6.627	9.941
23-4-105	HB 53-% withholdings from horse race wagers			0.000	0.000	0.000
23-4-202	HB 53-% withholdings from horse race wagers			0.000	0.000	0.000
23-4-204	HB 53-% withholdings from horse race wagers			0.000	0.000	0.000
23-4-302	HB 53-% withholdings from horse race wagers			0.000	0.000	0.000
23-4-304	HB 53-% withholdings from horse race wagers			0.000	0.000	0.000
90-1-xxx	HB 249-Earnings from big sky coal subtrust			1.338	1.581	2.919
90-1-1xx	HB 301- L&C license plate fees to Commerce & MHS			0.000	0.075	0.075
41-5-20xx	HB 414-Unspent GF to youth court prevention pgms.			0.600	0.485	1.085
15-31-xxx	HB 584-fee to receive tax credits for film production			0.018	0.018	0.036
10-2-603	HB 728-GF transfers for veterans' cemeteries			0.554	0.454	1.008
60-11-1xx	HB 757-Loans for railroad transportation facilities			<u>2.100</u>	<u>2.259</u>	<u>4.359</u>
Sub-total				\$8.487	\$11.499	\$19.986
Total			\$146.757	\$165.089	\$172.833	\$337.922

GENERAL FUND NON-BUDGETED TRANSFERS

The Montana Constitution requires that all money paid out of the state treasury, except interest paid on the public debt, be done with an appropriation. However, the state treasury consists of numerous accounts and, with proper authorization, money may be transferred from one account to another without an appropriation. This results in less money in one account for the programs it funds and more in another. Like statutory appropriations, these transfers and their authorizations are in statute and are not part of the biennial budgeting process, yet they affect the amount of money available for the legislature to appropriate for specific programs. Because they are in statute, they remain in place until removed or changed by legislation.

Since FY 2000, increased amounts of money have been transferred out of the general fund to other accounts that fund non-general fund programs. As illustrated in Figure 25, this amount has grown from \$0 in FY 1999 to \$19 million in FY 2002 (about 1.4 percent of total general fund expenditures), and transfers are estimated to be over \$54 million in the 2007 biennium. These transfers reduce the amount of money in the general fund that is available for general fund programs and increase the amount available for other non-general fund programs. Figure 26 shows each non-budgeted general fund transfer, including 13 new transfers enacted by the 2005 legislature totaling \$13.2 million over the 2007 biennium.

Figure 25

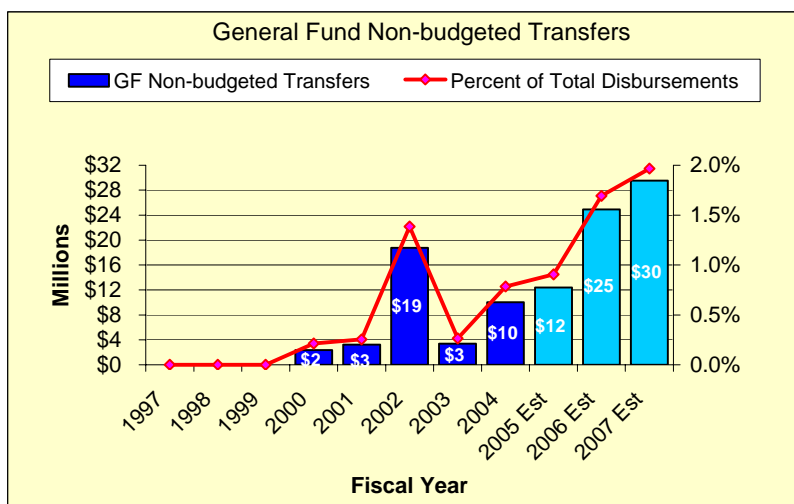


Figure 26 shows each non-budgeted general fund transfer, including 13 new transfers enacted by the 2005 legislature totaling \$13.2 million over the 2007 biennium.

Figure 26

General Fund Non-budgeted Transfer Estimates
Fiscal Years 2005-2007
(in millions)

			2007 Biennium		
Authorization	Name	Fiscal 2005	Fiscal 2006	Fiscal 2007	Total
<u>Vehicle/Other Fee Transfers</u>					
15-1-122(1)	Adoption services	\$0.044	\$0.049	\$0.054	\$0.103
15-1-122(2)(c,d)	To DOT	0.000	3.050	3.096	6.146
15-1-122(3)(a)(i)	Junk vehicle titling fee	0.740	0.776	0.646	1.422
15-1-122(3)(a)(ii)	Junk vehicle registration fee	1.044	1.085	1.110	2.195
15-1-122(3)(b)(i)	Weed fee OHV FILT	0.000	0.033	0.031	0.064
15-1-122(3)(b)(ii)(A)	Weed Vehicle <1 ton, logging, motor home	1.535	1.596	1.635	3.232
15-1-122(3)(b)(ii)(B)	Weed motorcycles & quadracycles	0.000	0.070	0.050	0.119
15-1-122(3)(b)(ii)(C)	Weed Vehicle permanent	0.062	0.064	0.066	0.130
15-1-122(3)(c)(i)	Watercraft decal fee	0.000	0.141	0.132	0.272
15-1-122(3)(c)(ii&iii)	Snowmobile decal fees	0.000	0.140	0.122	0.262
15-1-122(3)(c)(iv)	OHV decal fees	0.000	0.164	0.154	0.318
15-1-122(3)(c)(v)	Parks recreational fee	0.000	0.237	0.267	0.504
15-1-122(3)(c)(vi)	Watercraft FILT 20%	0.272	0.571	0.184	0.755
15-1-122(3)(c)(vii)	Vehicle registration fee for parks	0.000	2.744	2.810	5.554
15-1-122(3)(d)	Veterans license plates	0.176	0.183	0.188	0.371
15-1-122(3)(e)(i)	Highway patrol retirement	0.000	0.000	0.000	0.000
15-1-122(3)(f)	DOT senior transportation	0.340	0.674	0.358	1.032
15-1-122(3)(g)	Search & rescue surcharge	0.000	0.000	0.000	0.000
15-1-122(3)(h)	Vehicle registration fee for veterans	<u>0.646</u>	<u>0.676</u>	<u>0.577</u>	<u>1.253</u>
Sub-total		\$4.860	\$12.252	\$11.480	\$23.732
<u>Other Transfers</u>					
15-35-108	Research & commercialization	3.650	0.000	0.000	0.000
17-3-240	To the mineral impact account	8.959	8.665	8.834	17.499
39-11-203(5)	Loan costs for job credits *	0.000	0.000	0.000	0.000
39-71-2352(6)	Old state fund shortfall	Unknown	Unknown	Unknown	Unknown
53-20-171(2)	Development disability tax credit	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
Subtotal		\$12.609	\$8.665	\$8.834	\$17.499
<u>New - 2005 Legislature</u>					
Un-codified	HB 5-to the capital projects fund	\$0.000	\$10.700	\$19.400	\$30.100
Un-codified	HB 6-to renewable resource grant account	0.000	0.000	0.600	0.600
Un-codified	HB 9-to the cultural trust	0.000	3.413	0.000	3.413
Un-codified	HB 740-to asbestos disease account	0.000	0.175	0.000	0.175
Un-codified	HB 761-reimburse military ins. premiums	0.060	0.300	0.300	0.600
Un-codified	SB 87-to centrally assessed prop. tax acct.	2.632	0.000	0.000	0.000
15-1-122(3)(c)(vii)	SB 285-eliminate \$4 reg. fee transfer for parks	0.000	(2.744)	(2.810)	(5.554)
15-1-122	HB 170-Correct vehicle fee transfers	1.211	0.231	0.053	0.284
17-3-240	HJ 2-Increased US royalty estimate	0.000	0.239	0.487	0.726
17-3-240	SB 212-Eliminate the US royalty transfer	(8.959)	(8.904)	(9.321)	(18.225)
39-11-203(5)	HB 270-Eliminate loan costs for job credits	0.000	0.000	0.000	0.000
41-5-130(6)	HB 414-to youth prevention account	0.000	0.600	0.485	1.085
53-20-171(2)	HB 513-extended devel. disability tax credit	<u>0.000</u>	<u>0.000</u>	<u>0.000</u>	<u>0.000</u>
Subtotal		(\$5.056)	\$4.009	\$9.195	\$13.204
Total		\$12.413	\$24.926	\$29.508	\$54.434

PROPRIETARY FUNDS AND RATE SETTING

There are two types of proprietary funds: 1) internal service funds; and 2) enterprise funds. Internal service funds are used to account for "internal service" functions that provide goods or services to other agencies or programs of state government on a cost-reimbursement basis. Enterprise funds are used to account for "enterprise" functions that provide goods or services to the public on a user-charge basis. Examples of internal service funds are those collected by the Information Services Division of the Department of Administration for providing computer services to other agencies and those collected by the Central Stores program for providing various supplies to state agencies. An example of an enterprise fund is the state lottery. Since the 1997 biennium, the legislature has not appropriated proprietary funds to the program receiving the funds (except in cases where the proprietary funds are used as a part of a program that is not an enterprise or internal service function and otherwise requires an appropriation.)

In the past, the legislature appropriated internal service funds to the agency receiving the funds and simultaneously provided funding to the agencies that would pay the internal service functions for services received, which resulted in a double counting of the cost of providing internal service functions. To avoid this double-counting, the legislature no longer appropriates proprietary funds to the internal service functions receiving the funds, but instead sets the maximum rates that the internal service functions may charge. Statute requires that rates be commensurate with costs and prohibits an internal service function from raising rates above the legislatively established rates during the biennium. The legislature reviews enterprise functions and enterprise funds, but statute does not require that the legislature establish rates for enterprise functions. (SB 55 passed by the 1999 legislature requires that enterprise funds that transfer profits to the general fund or to an account subject to an appropriation must be appropriated by the legislature. The two enterprise accounts that currently fall under the requirement are the state lottery and liquor accounts.)

CHANGES BY THE 2005 LEGISLATURE

The 2005 Legislature made one major change in internal services funds through a reorganization. Responsibility for the maintenance of the capitol complex grounds has been transferred from the Department of Fish, Wildlife, and Parks to the Department of Administration, General Services Division. No change was made in either the methodology for assessing agencies for this cost or in the level of assessment made. The function is now part of the facilities management function.

SUMMARY OF PROGRAMS/FUNCTIONS

Figure 27 shows each function for which the legislature sets rates in HB 2, by agency.

Figure 27

Internal Services Functions
2007 Biennium

Agency/Program or Function

Transportation

Motor Pool
Equipment

Revenue

Customer Service Center

Administration

Administration and Financial Services Division
Legal Services
Management Services
Network Support
Warrant Writer
Human Resources

General Services Division

Facilities Management (inc. Capitol Grounds)
Mail Services
Print Services
Central Stores
Statewide Fueling Network
State Procurement Card

Information Technology Services Division

State Personnel Division
Professional Development
Payroll Processing

Fish, Wildlife, and Parks

Administration and Finance
Vehicle Account
Aircraft Per Hour
Duplicating
Bindery

Environmental Quality

Central Management

Natural Resources and Conservation

Air Operations

Commerce

Board of Investments
Director's Office/Management Services

Justice

Agency Legal Services

Corrections

Cook/Chill
Laundry

Labor and Industry

Centralized Services
Business Standards

Office of Public Instruction

Indirect Cost Pool

Montana University System

Employee Benefits

FUND SWITCHES

Figure 28 shows the funding switches that were made from present law. As shown, general fund spending authority is increased by \$67.6 million while other funds are reduced by \$65.7 million. There are four major causes of the large amount of funding switches: 1) change in the Medicaid matching rate; 2) reallocation of revenues to the general fund; 3) legal concerns; and 4) loss of federal funds. Miscellaneous causes account for the remaining switches.

Figure 28			
Fund Switches			
2007 Biennium			
--- 2007 Biennium ---			
Agency/Program	General Fund	Other Funds	Explanation
Judiciary - Information Technology	\$3,870,000	(\$3,210,672)	HB 536 funds IT program with general fund and deposits prior funding of \$10.00 surcharge from court case filings into the general fund.
Governor - Board of Visitors	190,000	(187,975)	Replaced eliminated federal Medicaid funds for the Mental Health Ombudsman with general fund
Governor - Executive Office	4,000,000	(4,000,000)	HB 270 & 271 transferred Workforce Training Grant Program to Dept. of Commerce and replaced INTERCAP loan SSR with GF
Commerce - Business Resources	2,800,000	(2,800,000)	HB 270 revised the funding mechanism from INTERCAP to general fund; HB 271 was a supplemental for \$2.1 million of general fund in FY 2005
Transportation - Maintenance	0	0	511 Travelers Information Program switch of \$80,000 per year from federal to state special revenue
Revenue - All Programs	1,398,106	(1,865,040)	Replaced federal Unemployment Insurance funds with general fund due to SB 271 (2003 Legislature) move UI to DOLI
Administration - General Services	(9,509)	9,509	Moved 0.10 FTE to State Procurement Card Program (non-budgeted proprietary funds)
Administration - Information Technology	600,000	(416,914)	Switched funding in the Public Safety Communications Program from FSR to general fund for 2.00 FTE existing and add 2.00 FTE
Montana Censensus Council	137,869	(137,869)	Funded executive director position with general fund instead of SSR
Justice - Drug Task Force	1,509,808	(1,396,067)	Funded the Montana Drug Task Force with general fund due to loss of federal grant (Byrne Grant) and state special revenue from county match.
Justice - Forensics Lab	245,866	(74,357)	Replaced federal funds no longer available for lab positions with general fund
Labor and Industry - Workforce Division	300,676	908,158	Switched funding from Reed act funds to general fund and ESA for Jobs for Montana Graduates and Displaced Homemakers
Labor and Industry - Commissioner	112,296	(112,296)	Switched funding from ESA to general fund for the Hearings Bureau
Labor and Industry - Employment	385,596	(385,596)	Switched funding from ESA to general fund for the Humans Rights Bureau
Labor and Industry - Community Service	1,486	(1,486)	Switched funding from ESA to general fund
DPHHS - Medicaid Match Rate	47,901,676	(47,901,676)	Increase in state Medicaid match rate
DPHHS - Child care/TANF	2,400,000	(2,400,000)	Provide general fund to support child care so that federal TANF funds supporting child care may be used to support cash assistance benefits
DPHHS - Child Support Enforcement	1,263,678	(1,263,678)	Funded from the diversion of tobacco settlement proceeds in 2005 biennium, returned to general fund support for 2007 biennium
DPHHS - Foster Care	1,000,000	(1,000,000)	Increase general fund support for foster care due to a decline in the number of children eligible for federal funds (Title IV-E) and compliance issues
DPHHS - Voluntary Genetics Program	(1,091,919)	1,091,919	Offset general fund for voluntary statewide genetics program with insurance fee increase (SB 275)
DPHHS - Extended Employment	541,278	(541,278)	Funded from the diversion of tobacco settlement proceeds in 2005 biennium, returned to general fund support for the 2007 biennium
Total	<u>\$67,556,907</u>	<u>(\$65,685,318)</u>	

CHANGE IN MEDICAID MATCHING RATE

All but \$20 million of the general fund switch is due to a reduction in the federal rate of participation in the Medicaid program. This reduction is due to a change in Montana's relative economic standing nationally. While the rate of participation is updated regularly, and has generally resulted in a more favorable federal rate in recent years, the improvement in Montana's relative economy coupled with the reversal of the one-time Medicaid match enhancement in the base year (see page 141 of this volume) has resulted in a significant change.

REALLOCATION OF REVENUES TO THE GENERAL FUND

Two switches are due to a reallocation of revenues from state special revenue accounts to the general fund. In both instances, the level of general fund is larger than the level of prior state special revenue: 1) Judiciary information technology; and 2) Department of Public Health and Human Services (DPHHS) voluntary genetics program. This factor accounts for almost \$5 million of switched funds but on net only \$2.8 million general fund growth.

LEGAL CONCERNS

The INTERCAP loan program was used to fund the worker's training program in the Governor's Office in the 2005 biennium (transferred to the Department of Commerce in the 2007 biennium). When legal concerns were raised as to the appropriateness of this source, the funding was switched to general fund. This factor addresses \$6.8 million of general fund growth.

LOSS OF FEDERAL FUNDS

In several instances, the legislature replaced federal funding that was either: 1) reduced at the source; 2) deemed to be an inappropriate use of the funds; or 3) a known one-time source of funding. The total switch due to these factors is about \$5 million.

OTHER SWITCHES

There are a number of appropriations made by the 2005 Legislature that are not listed in Figure 28 that represent a change in funding for the same function from the 2005 biennium to the 2007 biennium. These funding changes are not listed in the table because the functions were supported by one-time-only appropriations, which were removed from the FY 2004 base budget. However, the one-time-only appropriations supported state government programs and functions that have been part of the present law services for many years and that, for the most part, are funded with ongoing appropriations in the 2007 biennium.

The biennial appropriation for each function is:

- MIAMI (Montana Initiative for the Abatement of Mortality in Infants) - \$1,100,000 million general fund
- Meals on Wheels - \$514,000 general fund
- State matching funds for Medicaid personal assistance benefits - \$451,193, general fund
- AIDS treatment and prevention - \$84,000 general fund
- Poison control hotline - \$77,908 general fund

If these functions had been included in Figure 28 it would have increased the general fund total by \$2.2 million and reduced other funds by a like amount.

FEE CHANGES

The 2005 Legislature enacted changes to fees (increases or decreases) and created new fees that will raise an estimated net \$61.5 million in the 2007 biennium. Of that amount, \$37.4 million is reflected in appropriations in the general appropriations act (HB 2). The increased fee revenue, which will mostly be deposited in accounts other than the general fund, will be used to fund new and existing agency programs. Figure 29 lists 40 bills that contain fee increases. In addition, there are three instances of fee changes being a result of the level of spending authority authorized in the HB 2. Legislation is included on this list if there is: 1) a fee increase, 2) a fee decrease, 3) new fees imposed, or 4) a new group of fee payers. Not included on the list are university system tuition hikes that are certain to occur (based upon recent Board of Regents decisions) during the 2007 biennium. While this list may not be complete because of the difficulty of sometimes defining what is a "fee", it is a representative list of fee bills.

Figure 29				
Increased or Decreased Revenues from New or Changed Fees				
2007 Biennium				
Bill #	Description	Estimated Revenue Biennial Impact	New or Revised (N or R)	Amount in HB 2
<u>New Fee or Revised Fee as Result of Statutory Change</u>				
HB 22	Water adjudication fees	\$6,200,000	N	\$4,816,580
HB 34	Revises turkey tag laws	108,420	R	
HB 35	Highway patrol officer salaries/retention - vehicle registration fee increase	9,940,725	R	
HB 55	Permanent registration of trailer and semitrailer fleet	-	R	10,000
HB 60	Cleanup of indoor meth labs - fee for training/certification	15,000	N	15,000
HB 71	Revise license fees on certain mortgage brokers	(30,000)	R	
HB 77	Increase septic pumper fees	54,250	R	
HB 140	Revise laws on consumer credit counseling	5,000	N	
HB 160	Revise building code administration	100,750	R	
HB 172	Revise certain hunting and fishing licenses	4,146,734	R	
HB 174	Establish private pond fees	25,830	N	
HB 203	Clarify responsibility of boards and DLI - increases sanitarian fee	9,500	R	
HB 214	Creation of non-resident youth big game license	187,500	N	
HB 235	Creation of lottery draw program and fees for specific hunting tags	746,232	N	746,232
HB 272	Half-priced hunting licenses to disabled veterans	5,830	N	
HB 274	Agricultural feed laws to increase licensing and registration fees	196,250	R	
HB 370	Revise strip and underground mining fees	(500)	R	(600)
HB 421	Hunting/fishing licenses for non resident child of resident	(26,946)	N	
HB 470	Applicants to pay for certain environmental impact statements	250,000	N	250,000
HB 476	Increase marriage license fee to fund domestic violence intervention program	186,966	R	186,966
HB 536	Generally revise court automation surcharge	3,210,672	R	3,210,672
HB 541	Revise registration of certain motor homes	71,234	R	4,180
HB 584	Promote growth of film and other media in Montana	35,170	N	
HB 628	Registration for certain alternative schools and programs	44,000	N	42,650
HB 671	Generally revising motor vehicle laws	3,608,650	R	787,500
HB 749	Revise nursing home bed tax	9,561,395	R	
HB 802	Eliminate annual permit surcharge fee for video gambling machines	(530,344)	R	
SB 82	Revise definition of and utilization fee on ICF/DD	476,236	R	
SB 98	Montana land information act	2,100,000	R	2,100,000
SB 120	Extend hospital tax on inpatient bed days	25,570,394	R	24,675,892
SB 137	License tattoo and body piercing businesses	34,750	N	34,750
SB 208	Increase conviction charge to fund victim services	34,178	R	
SB 275	Revising voluntary genetics program: increasing program fee	499,676	R	
SB 282	Student fee to attend course on racial profiling	11,520	N	22,520
SB 320	Revise concentrated animal feeding operation permit fees	(81,000)	R	
SB 339	Low cost hunting permits for active military personnel	(27,709)	N	
SB 406	Fund civil legal assistance for indigent victims of domestic violence	54,900	R	54,900
SB 412	Regulation or elevator contractors, mechanics, and inspectors	99,840	N	85,390
SB 442	Repeal POINTS replacement fee	(5,768,172)	R	
SB 486	Revise viatical settlement law	20,000	N	
	Sub-total	\$61,146,931		\$37,042,632
<u>Fee Change as Result of Appropriation in HB 2</u>				
	Increase fire protection taxes to \$0.20/acre	\$74,578	R	\$74,578
	Annual adjustment to air quality fees	\$139,527	R	\$139,527
	Military Affairs Shared usage fees for Distance Learning Program	125,000		125,000
	Sub-total	\$339,105		\$339,105
	Total	\$61,486,036		\$37,381,737

LEGISLATIVE INTERIM STUDIES – SUMMARY

The Fifty-ninth Legislature adopted 2 bills and 22 joint resolutions for interim studies. Those interim studies are listed in Figure 30 along with the status of where each was referred by the Legislative Council at its May 2005 meeting. Of the 22 resolutions, 20 were referred to various legislative interim committees. The remaining studies were not assigned, based upon a survey of legislators to determine priority.

Figure 30		
Legislation Requesting or Requiring Studies 2007 Biennium		
Bill No.	Study Description	Legislative Council Assignment
HB 790	Study of split estates and coal bed methane reclamation and bonding	Environmental Quality Council (EQC)
SB 525	School funding formula study	School Funding Formula Study and Quality Schools Committee
HJR 10	Study fire-related statutes for suppression and mitigation	Environmental Quality Council (EQC)
HJR 15	Study sentencing equity	Law and Justice (LJIC)
HJR 26	Study state financial reliance on fed funds; implications of fed budget deficits	Legislative Finance Committee (LFC)
HJR 30	Study FWP licenses, permits, and landowner incentives	Not assigned
HJR 33	Study contract timber harvesting	Environmental Quality Council (EQC)
HJR 34	Study on impacts of superfund sites on surrounding communities	Environmental Quality Council (EQC)
HJR 36	Study resource indemnity trust funding and allocation	Legislative Finance Committee (LFC)
HJR 41	Study economic development in Indian country	State-Tribal Relations (STR)
HJR 42	Study investment of pension funds	State Admin. and Vets' Affairs (SAVA)
HJR 43	Study the classification and valuation of agricultural land	Revenue and Transportation (RTIC)
HJR 44	Study taxation of oil & gas production, equipment, and transmission pipelines	Revenue and Transportation (RTIC)
HJR 45	Study funding for wireless enhanced 911	Not assigned
SJR 06	Study legal services for low and moderate income Montanans	Law and Justice (LJIC)
SJR 11	Study subdivision review process	Education and Local Government (ELG)
SJR 14	Comprehensive review of state active duty process	State Admin. and Vets' Affairs (SAVA)
SJR 35	Study professional and occupational licensing boards	Economic Affairs (EAC)
SJR 36	Study distributed energy generation	Energy and Telecommunications (EAT)
SJR 37	Study child protection system	Children & Families (CFHHS)
SJR 38	Study issues related to identity theft	Economic Affairs (EAC)
SJR 39	Study possible creation of ongoing energy planning and coordinating entity	Energy and Telecommunications (EAT)
SJR 40	Study delivery of prosecution services	Law and Justice (LJIC)
SJR 41	Study mental health crisis response system	Children & Families (CFHHS)

While many of the assigned studies likely include significant fiscal issues or may have an impact upon the state budget in some way, none seem to imply any direct fiscal impacts that can be addressed at this time. As the studies run their course, legislators and legislative staff members need to be cognizant of the potential for fiscal impacts that may have budget implications for the current and future biennia.

OTHER MAJOR FUNDS

HIGHWAYS SPECIAL REVENUE ACCOUNT

Projections for the highways state special revenue account (HSRA) indicate that expenditures from the account will exceed account revenues and the working capital balance would be depleted by the end of FY 2007. This situation of excess expenditures is expected to continue through the foreseeable future. Expenditures at the level appropriated by the legislature are expected to exceed revenues by nearly \$53.7 million during the 2007 biennium and the account is forecast to end the 2007 biennium with a depleted account balance. At the current level of services, expenditures could exceed revenues by nearly \$44.0 million during the 2009 biennium.

Three revenue sources – gasoline taxes, diesel taxes, and gross vehicle weight fees – provide roughly 98 percent of the revenues into the account. These three revenue sources rely on increased usage to provide revenue growth. Inflationary factors tend to have an inverse effect on increased usage. However, increased usage directly increases expenditures, because as highways see more use, maintenance and construction costs tend to increase with the higher level of wear. Cost increases from increased use compound the cost increases from inflation to widen the imbalance between expenditures and revenues.

Given the declining financial condition of the account, the 2007 legislature may be faced with the need to either increase highway user fees or fuel taxes or to reduce the level of services provided for the state's transportation infrastructure. See the table and discussion of the HSRA in Volume 3, page A-81 of this report for additional information.

RESOURCE INDEMNITY TRUST

The Montana Constitution (Article IX, Section 2) requires the existence of the Resource Indemnity Trust (RIT) and states “ The principal of the resource indemnity trust shall forever remain inviolate in an amount of one hundred million dollars (\$100,000,000), guaranteed by the state against loss or diversion.” In February of 2002, the Governor certified that the balance of the RIT had exceeded the \$100 million threshold. Consequently the trust no longer receives revenue. However, interest earnings are used as a funding source for several RIT related funds.

The legislature appropriated funds from the corpus of the trust, interest from the trust, and indemnity related taxes to provide \$27.6 million worth of support to two universities, four agencies, and numerous local governmental agencies through the grant and loan programs. Five pieces of legislation were passed that affected the utilization of trust dollars through transfers and new appropriations. The legislature also chose to address the issues regarding the potential inappropriate utilization and lack of oversight of the funds.

In addition to appropriations made in HB 2, HB 6 and HB 7, the legislature affected the resource indemnity trust with the following legislation:

- HB 2 appropriations include \$230,000 of excess corpus dollars in excess of the constitutionally required \$100 million to the University System and the Judiciary.
- HB 6 authorized \$600,000 of general fund to be transferred into the renewable resources account to provide additional grants and loans
- HB 379 authorized the transfer of \$1.2 million per year to the Zortman-Landusky (Z/L) Water Treatment Trust until such time that the trust reaches 19.3 million.
- SB 143 authorized \$600,000 of orphan share loan funds to be transferred to the hazardous waste fund and the environmental quality protection fund
- HB 7 transferred \$457,116 from the reclamation and development fund to the renewable resource fund and the environmental contingency account to provide increased funding for grants and loans and environmental emergencies
- SB 489 provides \$1.25 million to the remediation division of the Department of Environmental Quality to establish a remediation plan for a multiple party site in northwestern Montana

To address the management and utilization issues of the trust, the legislature completed the following:

- Language allowing the use of funds for activities outside of statute was added to HB 6 (Renewable Resource Loans and Grants) and HB 7 (Reclamation and Development Loans and Grants) for the 2007 biennium only
- Upon the recommendation of the joint appropriations committee for natural resources and commerce, the legislature passed a resolution (HJ 36) to study the structure, historical usage, and statutes related to the resource indemnity funds

The legislature maintained that RIT funds should be structurally balanced. This was achieved in all funds but the renewable resource fund, where the legislature appropriated approximately \$40,000 more than estimated revenues. This fund ended with a negative balance of \$51,664 after the pay plan was allocated. Two additional funds ended in the negative position due to pay plan allocations. The hazardous waste fund and the environmental quality protection funded have a projected ending balance of negative \$41,968 and negative \$55,155 respectively. All projected balances could change

based on the amount of the appropriation spent and the actual revenues. A summary of appropriation activity is displayed in Figure 31.

Figure 31							
Resource Indemnity Trust - Related Funds							
Projected 2007 Biennium Activity							
Fund Title	Renewable Resource (02272)	Reclamation & Haz. Waste Development (02458)	CERCLA (02070)	Environmental Quality Protect. (02162)	Groundwater Assessment (2289)	Water Storage (02216)	Orphan Share (02472)
Fund Number	(02272)	(02458)	(02070)	(02162)	(2289)	(02216)	(02472)
Beginning Fiscal 2005 Fund Balance (SABHRS)	\$1,396,368	\$1,944,494	\$194,540	\$839,661	\$252,454	\$320,696	\$5,093,800
Continuing appropriations	(3,882,647)	(2,474,570)	(31,231)			(589,979)	0
Fiscal 2005 appropriations	(934,212)	(2,961,720)	(895,656)	(915,792)	(666,000)	0	(1,350,144)
Fiscal 2005 Adjustments	0	0	0	0	(252,454)	0	0
Fiscal 2005 revenues (RTIC, agency estimates)	3,802,517	5,339,484	619,760	725,560	666,000	138,000	2,254,000
Projected Available Fund Balance Beginning FY2006	\$382,026	\$1,847,688	(\$112,587)	\$649,429	\$0	(\$131,283)	\$5,997,656
Revenues (RATC, agency estimates)							
RIT Interest-direct	4,480,000	3,000,000			600,000	500,000	
RIT Interest-further allocation	1,034,400	1,206,800	896,480	310,320			
RIGWA Proceeds		4,777,376			732,000		4,777,360
Metal Mines Tax (7%)		1,311,000					
Coal Tax & Interest (from 04011)	516,009						
STIP/Other Interest	20,000		4,000	6,000		37,500	70,000
Cost Recoveries				1,023,800			
Transfers - SB 143 - Loans from Orphan Share			390,405	209,595			(600,000)
Transfers - HB 6 from General Fund	600,000						
Transfers - HB 379 Z-L Water Treatment Trust							(2,400,000)
Administrative Fees	14,000						
State-owned Project Revenue						240,000	
Total Projected Available Revenues	\$7,046,435	\$12,142,864	\$1,178,298	\$2,199,144	\$1,332,000	\$646,217	\$7,845,016
Executive Appropriations							
House Bills 6 and 7 Grants	\$ 4,600,000	\$ 4,856,187					
House Bill 6-Emergency/Private Grants	400,000						
House Bill 7-Transfers (\$57,116 to ECA)	(400,000)	457,116					
MSU-Northern (statutorily appropriated)	480,000						
UM-Bureau of Mines					1,332,000		
DNRC-Centralized Services	10,000	12,000					
DNRC-Conservation and Resource Devel. Division	359,777	2,145,455					
DNRC-Water Resources Division		254,832				544,600	
DNRC-Flathead Basin Commission	16,002						
DEQ-Central Management		88,378	28,964				
DEQ-Planning, Prevention & Assistance			266,244				
DEQ-Enforcement		9,648					
DEQ-Remediation - SB 489							1,250,000
DEQ-Remediation			47,916	2,199,144			2,100,019
DEQ-Permitting & Compliance		3,243,521	833,174				
Judiciary-Water Court	1,533,510						
Library Commission-State Library Operations/NRIS		782,872					
HB 447 Pay Plan	98,810	130,978	43,968	55,155			1,571
Total Appropriations	\$7,098,099	\$11,980,987	\$1,220,266	\$2,254,299	\$1,332,000	\$544,600	\$3,351,590
Projected 2007 Biennium Ending Balance	(\$51,664)	\$161,877	(\$41,968)	(\$55,155)	\$0	\$101,617	\$4,493,426

COAL TAX SHARED ACCOUNT

The coal tax shared account receives a portion of coal severance revenues for further distribution to specific programs. Entities in the coal tax shared account include the Coal Board in the Department of Commerce, Conservation Districts in the Department of Natural Resources and Conservation, Growth Thru Agriculture in the Department of Agriculture, and the Montana State Library Commission. Two pieces of legislation were passed that affected the allocation of tax dollars to the fund. They are:

House Bill 482 - HB 482 increases the amount of coal severance tax revenues flowing into the coal tax shared account from 7.75 percent to 8.36 percent. The legislature appropriated increases in state special revenue by \$389,606 to implement the provisions in HB 482.

House Bill 758 - HB 758 creates a new oil, gas, and coal natural resource state special revenue account, which dedicates revenue to the Department of Commerce and the Department of Revenue. Revenues for the new account come from the coal severance tax and the oil and gas production tax.

Passage of HB 482 allocates 8.36% of the coal severance tax revenues to the coal tax shared account, a state special revenue account. However, HB 758 will reduce this amount to 5.46 percent, and the difference, 2.90 percent, will go to the new account and be administered by the Coal Board in the Department of Commerce. The Coal Board will no longer be a participant in the coal tax shared account. The Department of Commerce will receive \$1.5 million over the biennium for the purpose of administering the activities of the Coal Board.

The legislature allocated the coal tax shared account in the following manner:

Figure 32 Coal Tax Shared Revenue Account 2007 Biennium			
	FY 2006	FY 2007	Biennium
Estimated Revenues	\$1,725,510	\$ 1,761,877	\$ 3,487,387
<u>Appropriations</u>			
Montana State Library - Statewide Library Resources	436,512	437,204	873,716
DNRC - Conservation Districts/Centralized Services	803,554	804,553	1,608,107
Agriculture - Growth Through Ag	<u>508,872</u>	<u>513,520</u>	<u>1,022,392</u>
Total Appropriations	<u>\$1,748,938</u>	<u>\$1,755,277</u>	<u>\$3,504,215</u>
Balance	<u>-\$23,428</u>	<u>\$6,600</u>	<u>-\$16,828</u>